



# **Agreement Between County of Orange and Disability Rights California**

## **Expert Monitor's Report (Second Round)**

### **Elimination of Harmful Restrictive Housing and Disciplinary Practices**

On-Site Review: February 20-24, 2023

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## I. Introduction

On March 22, 2018, Disability Rights California (DRC) notified the County of Orange of its intent to monitor Orange County Jail facilities, as consistent with its federal and state law authority to monitor facilities with respect to the rights and treatment of individuals in California who have disabilities.

DRC and its authorized agents conducted facility monitoring tours of the Jail on May 10-11, 2018, June 11, 2018, and January 30-31, 2019. DRC's monitoring included (1) interviews with leadership and staff from the Orange County Sheriff's Department (OCSD) and Correctional Health Services (CHS), (2) interviews and other communications with a substantial number of people in custody at the Jail during and outside of the above-mentioned monitoring tours, and (3) review and substantive analysis of relevant records, data, and policies.

On March 8, 2019, DRC issued findings from its monitoring investigation of Orange County Jail facilities, including issues related to the rights of incarcerated people with disabilities, the treatment of incarcerated people with mental health care needs, the use of restrictive housing, and the treatment of incarcerated people who identify as LGBTQ.

Following the issuance of DRC's findings, the Parties engaged in discussions regarding a process to address the findings without the need for adversarial litigation.

On November 21, 2019, the Parties executed the above-mentioned Negotiations Agreement, which provided a procedural framework for resolving the disputed claims.

Consistent with the Parties' Negotiations Agreement, the Parties mutually agreed for Sabot Consulting to serve as a neutral expert (1) to conduct a comprehensive, independent review of policies, procedures, and practices related to the topics set forth in the Settlement Agreement, and (2) to complete a report with findings and recommendations to address any identified deficiencies. The County retained Sabot Consulting to serve as the neutral expert pursuant to an agreement executed on January 25, 2020 (amended on February 22, 2020).

Sabot Consulting's team of experts conducted site visits at the Jail during the months of March, May, and June 2020. The assessment included interviews with incarcerated persons, sworn staff, and non-sworn staff working at the Jail, as well as an extensive policy and data review.

On March 19, 2021, Sabot Consulting submitted to the Parties its Final Report, Orange County Sheriff's Department Custody Operations: Americans with Disabilities Act, Restrictive Housing, LGBTQI, and Healthcare Program Assessment.

Consistent with the Parties' Negotiations Agreement, the Parties then engaged in careful negotiations of a Remedial Plan to address the findings of Sabot Consulting's Assessment Report and to implement its recommendations, as appropriate. Negotiations were

substantially informed by DRC's ongoing review of relevant records, data, and other materials, information-sharing with the County, and communication with people incarcerated at the Jail.

While Sabot Consulting's assessment and the Parties' negotiations were necessarily slowed by the circumstances of the COVID pandemic, the Parties' negotiations have proceeded as expeditiously as possible toward a resolution and formal agreement. In consultation with DRC and its authorized agents, the County has already begun to implement several of Sabot Consulting's recommendations and related remedial actions during the period of negotiations.

The County agreed to implement the provisions of the Remedial Plan, subject to monitoring by Sabot Consulting and by DRC with its authorized agents and further discussions between the Parties.

The County agreed to develop and implement appropriate and adequate plans, policies, and practices to ensure implementation of and compliance with the Remedial Plan. During the period of monitoring pursuant to the Parties' Agreement, the County is required to submit plans or policies to DRC for review and comment.

DRC's March 2019 findings letter and Sabot Consulting's Assessment Report each identified concerns regarding the treatment of incarcerated people with mental health disabilities at the Jail.

- Subsequent to those findings, the County has taken and continues to take steps to enhance Jail mental health care programming.
- Certain mental health-related issues are addressed in the Remedial Plan, including as related to disability-related accommodations and program access, reforms to restrictive housing/isolation practices, and reforms to disciplinary practices as they apply to people with mental health or other disabilities.
- The Parties agree that the Jail's mental health treatment programming requires further development to meet the needs of the population. The Parties further acknowledge that DRC and its authorized agents will continue to monitor the treatment of people with mental health disabilities at the Jail, including through monitoring processes.
- If DRC identifies concerns with respect to the care and treatment of people with mental health disabilities, it will raise those concerns with the County and confer in good faith as to necessary remedial action to address any such problems. If DRC finds that such concerns are not adequately addressed, it will so inform the County and may take any necessary action, including by any legal means, to protect the rights of people with mental health disabilities.

## **II. The Expert's Monitoring Role and Monitoring Activities**

The Parties previously agreed to a process and framework for monitoring the implementation of the Remedial Plan. The Parties also agreed in the Negotiations Agreement and continue to agree that Sabot Consulting will serve as the neutral Expert for purposes of monitoring the Remedial Plan implementation.

The Expert is required to complete a comprehensive review (Compliance Review) of the County's implementation of the components of the Remedial Plan within 180 days of the execution of the Agreement and conduct a Compliance Review every 180 days thereafter during the term of the Agreement. The Expert is required to review whether the County has adequately implemented each component of the Remedial Plan and is required to identify which components, if any, are not yet adequately implemented.

As part of the Compliance Review, the Expert is required to issue a draft report (Compliance Report) that states their opinion as to whether the County has adequately implemented the components of the Remedial Plan and which components, if any, are not yet adequately implemented. Within fifteen (15) days following the issuance of a draft Compliance Report, the Parties may provide written responses to the draft Compliance Report. If either Party submits a written response to the draft Compliance Report, the Expert will consider the response(s) and issue a final report within fifteen (15) days. The final report will address any written responses submitted by the Parties. If neither Party submits a written response to the draft report, the Expert's draft report will become the final report.

Within 15 days of the issuance of the Expert's final Compliance Report, the Parties will meet and confer to discuss the Expert's findings and recommendations. Within 30 days of the issuance of the final Compliance Report that includes a finding that the County has not adequately implemented one or more components of the Remedial Plan, the County shall develop a proposed plan that identifies the actions it will take to address the Expert's findings (Action Plan). The Parties will then have 30 days to agree upon the County's proposed Action Plan or negotiate a revised Action Plan.

If the Expert issues two successive Compliance Reports finding that the County has adequately implemented the same component of the Remedial Plan, such a finding will result in a suspension of monitoring by the Expert of the corresponding component. The Expert may, however, continue to review whether the County has adequately implemented a component for which monitoring has been suspended pursuant to this provision if such review is necessary for determining whether the County has adequately implemented other components of the Remedial Plan for which monitoring has not been suspended pursuant to this provision. If, during the term of the Agreement, DRC forms the good faith belief that the County is no longer adequately implementing a component of the Remedial Plan for which the Expert had suspended monitoring pursuant to this provision, DRC shall promptly notify the County in writing and present a summary of the evidence upon which such a belief is based. Within 30 days thereafter, the County shall serve a written response stating whether it agrees or disagrees with DRC's position. In the event that the County agrees, monitoring

by the Expert and DRC pursuant to this Agreement shall resume with respect to the Remedial Plan component(s) at issue. In the event the County disagrees, the Parties shall present to the Expert in writing their positions. The Expert will, within 30 days, issue a written decision regarding whether to resume monitoring of the Remedial Plan component(s) at issue.

## **B. Monitoring Process**

In each Compliance Report, the Expert is required to identify whether the County has adequately implemented each Remedial Plan provision. The Expert is required to make the findings utilizing the following definitions:

**Adequately Implemented:** Implementation of all or most components of the relevant Remedial Plan provision, and no significant work remains to accomplish the goal of that provision.

**Partially Implemented:** Implementation of some components of the relevant Remedial Plan provision and significant work remains to reach adequate implementation.

**Not Implemented:** No implementation of most or all the components of the relevant Remedial Plan provision, and significant work remains to reach partial implementation.

**Un-ratable:** Used where the Expert has not been provided data or other relevant material necessary to assess implementation or factual circumstances during the monitoring period, making it impossible for a meaningful review to occur at the present time.

**Not Assessed:** Used where the Expert has not assessed implementation with a particular provision during a monitoring period. This designation should be used only where circumstances make it infeasible for the Expert to complete the assessment during the monitoring period.

**Monitoring Suspended Based on Previous Findings of Compliance:** Used where two previous successive Compliance Reports have found that the provision has been adequately implemented.

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### III. Executive Summary

This is the Second Expert Monitor Review to measure Orange County's compliance with the Settlement Agreement, which addresses related mandates, including:

- I. Systemwide Increase of Minimum Out-of-Cell Time.
- II. Closure of Disciplinary Isolation (DI) Cells and Central Men's Living Cells to End Housing of People in Areas of Extreme Sensory Deprivation and Lack of Program Space.
- III. Creation of Special Management Unit (SMU) Status.
- IV. Prohibition on Discipline for Behaviors That Are Related to Mental Health or Disability, Prohibition on Sanctions That Pose Risk of Serious Harm.

The second round of monitoring focused on the Theo Lacy Facility (TLF), Central Men's Jail (CMJ), Central Women's Jail Men's Annex (CWJ), and the Intake Release Center & Transportation (IRC). The on-site Monitoring Review was conducted from February 20-24, 2023. The Monitoring Review included a review of pre-monitoring documents produced by the County of Orange (OC); on-site observations; interviews of sworn and non-sworn personnel (e.g., housing deputies, HCA CHS healthcare staff (medical and mental health) classification staff; and interviews of incarcerated persons housed at the OC jails.

An entrance meeting was conducted with representatives from the County of Orange (jail administration, HCA CHS staff, representatives from the OC jails divisions/disciplines, and staff from the county counsel's office). DRC representatives were also present during the entrance meeting and during portions of the monitoring tour. An exit meeting was conducted via Google Teams on March 2, 2023, with representatives from the County of Orange (jail administration and staff from the county counsel's office). DRC representatives were also present during the exit conference.

The Orange County Sheriff Departments' professionalism, facilitation, and coordination ensured Expert access to all facilities, staff, and incarcerated persons for interviewing purposes and is greatly appreciated. The Expert found the staff was open and transparent in their responses during the staff interviews.

The Expert recognizes that the OC jails have been working under challenging conditions during the COVID-19 pandemic while striving to obtain compliance with the Settlement Agreement and the applicable county policies and procedures.

The Expert finds that some of the provisions as set forth in the Settlement Agreement (and local policies/procedures) have been implemented. However, the Expert finds that more information and evidence are needed to make a determination of compliance for some of the required elements. A more thorough assessment will be made in future monitoring once policies/procedures are developed and implemented, proof of practice documentation (in various areas) is provided, and relevant training material is developed and implemented. The



Expert is confident that once related policies, procedures, and training is developed and implemented, staff will be better informed in an understanding of Settlement Agreement requirements and how that correlates to their respective job duties. As outlined in this report, there are requirements of the Settlement Agreement that are addressed in OCSD and/or HCA CHS policies, but other areas are not addressed, or the policies are in the development stage.

As this was the second monitoring tour, all elements of the Settlement Agreement were evaluated for compliance and although still early in the process, the Expert is pointing out some specific areas the County must focus on in order to ensure the incarcerated persons are provided the required minimum out-of-cell time (dayroom and exercise/recreation), dayrooms and recreation yards are available for use from 0600-2300, documentation of the provision/refusals of dayroom and recreation yard for each incarcerated person, offering of additional dayroom and recreation yard opportunities when availability of dayrooms and recreation yard exists, creation of the SMU program, creation and implementation of policies and procedures for staff to make a meaningful consideration of the relationship of the disability (mental health, intellectual/developmental) and the behavior, as well as the efficacy/appropriateness of the disciplinary measures versus alternative interventions and the impact of the disciplinary measures on the health and well-being of the incarcerated persons with mental health and intellectual/developmental disabilities.

The Expert's review of the Dayroom and Recreation Logs produced by the County revealed a slight improvement in the provision of out-of-cell time (dayroom), provision of recreation opportunities, and in the documentation of access to and/or refusal in both of those two areas. However, these improvements were not found in all facilities.

At TLF, Mod Q, a Recreation Log, stood out above all others and only on a couple of days of the week. Aside from the fact the recreation yard did not open until 1000 hours and was closed by 1916 hours, the logging on Sunday, July 17, 2022, clearly reveals start and stop times, offers, refusals, and self-lockdowns for each incarcerated person. In addition, the Expert notes that the log is color coded for easy reference. If this format could be enhanced by identifying the two (2) 1.5-hour sessions of recreation provided/offered in the week, this would assist the County in showing proof of practice and compliance with the RP requirements.

The Expert notes the County has adequately implemented the following RP requirements:

- Providing incarcerated person access to toilet facilities during their dayroom time.
- Rotating the dayroom opportunity times daily.
- Documenting exigent circumstances when an incarcerated person is at court or an off-site medical appointment during their scheduled dayroom/recreation yard time.
- Consistent with safety and security needs, maximizing opportunities for incarcerated persons in celled housing to interact with others during the out-of-cell time.
- Ensuring incarcerated persons are offered some opportunities for out-of-cell time during normal daylight hours each week.



- Closure of the DI cells in the CMJ, IRC, TLF, and CWJ.
- Designation of a supervisory-level Disciplinary Hearing Officer for each OC jail facility.

The Expert also makes the following recommendations:

- The County must consistently provide the required three (3) hours per day in a dayroom or other common area, for a total of at least twenty-one (21) hours per week.
- Ensure staff logs sufficient information for the Expert to determine if the incarcerated persons are being provided the required daily three (3) hours per day in a dayroom or other common area, for a total of at least twenty-one (21) hours per week.
- Ensure the logs reflect the incarcerated person identifiers (name and booking number), for cases where there are multiple incarcerated persons in a dorm/tank and the incarcerated person, accepts and/or refuses dayroom.
- Ensure the dayrooms are consistently operating during the hours of 0600 through 2300.
- Ensure additional dayroom time beyond the three (3) hours per day is offered when the dayrooms are available.
- Ensure staff consistently provide the required three (3) hours minimum per week of outdoor exercise and/or recreation.
- Ensure staff logs sufficient information for the Expert to determine if the incarcerated persons are being provided the required three (3) hours minimum per week of outdoor exercise and/or recreation.
- Ensure the logs reflect the incarcerated person identifiers (name and booking number) for cases where multiple incarcerated persons were offered and provided outdoor/exercise and/or recreation.
- Ensure that the recreation yards are available and in use from the hours of 0600 to 2300.
- Ensure that additional outdoor exercise and/or recreation time beyond the three (3) hours per week are offered and provided as scheduling and classification needs allow.
- Ensure that the outdoor space adjacent to the TLF Barracks (the "Green Sector") is consistently in use by incarcerated people during daylight hours, except in cases of emergency and as necessary for particular events related to the safety and security of the facility.
- Ensure the recreation logs include documentation of the reasons that precluded the provision of the minimum outdoor time in the given week.
- Ensure the policies and procedures include the requirement for staff to accommodate individual needs regarding the time of day for out-of-cell time (e.g., for people with disabilities impacting fatigue, on sleep medications, etc.).
- Ensure supervisory staff conduct and document electronic audits at least weekly to ensure that OCSJ is offering the required out-of-cell time consistent with the RP provisions.

- Ensure the electronic system documents and tracks the amount of out-of-cell time that each person in custody is offered and receives. The tracking system must have the capability/functionality to track the following:
  - Dayroom offered for every incarcerated person (date and time including weekly totals).
  - Dayroom provided for every incarcerated person (date and time including weekly totals).
  - Dayroom refusals for every incarcerated person (date and time, including weekly totals).
  - Cases of emergency (count, searches, and lockdowns) where the dayrooms were not open.
  - Cases where the incarcerated person is at court or an off-site medical appointment.
  - Scheduled program participation in the dayroom.
  - Recreation yard offered for every incarcerated person (date and time including weekly totals).
  - Recreation yard provided for every incarcerated person (date and time including weekly totals).
  - Recreation yard refusals for every incarcerated person (date and time, including weekly totals).
  - Cases related to exigent circumstances or inclement weather that precludes the provision of the minimum outdoor time in a given week.
  - Restriction of dayroom and recreation yard access related to infectious disease control.
- Ensure staff makes a referral to CHS (urgent or higher) for assessment and appropriate clinical follow-up for cases where an incarcerated person refuses out-of-cell time repeatedly (e.g., more than three times in one week) and the reason for such refusals may be related to their mental health, medical, or disability status.
- Finalize the SMU policies and procedures, and forms and activate the SMU status/program.
- Ensure the OCSD and CHS policies and procedures are revised to include the requirement for staff to conduct a meaningful consideration of the relationship of each person's behavior to any mental health disability or Intellectual/Developmental Disability, the efficacy of disciplinary measures versus alternative interventions, and the impact of disciplinary measures on the health and well-being of incarcerated people with disabilities.
- Ensure that OCSD and CHS provide staff assistants during the hearing process for people with mental health or intellectual disabilities.
- Ensure the provision of effective communication and necessary assistance to people with disabilities at all stages of the disciplinary process.
- Ensure the Disciplinary Hearing Officer checks the ADA Tracking System and ensures the provision of reasonable accommodations and effective communication during the disciplinary process.

- Ensure CHS designates a supervisory-level clinician for each jail facility, who is responsible for ensuring consistency in disciplinary practices and procedures.

The Expert's report identifies areas deemed as Adequately Implemented, Partially Implemented, Not Implemented, Unratable, and Not Assessed. The areas deemed as Unratable are generally due to a lack of implementation and/or a lack of policy/procedures and/or other supporting documentation.

The following reflects the overall ratings given for the 23 areas rated:

- Adequately Implemented - Six (6)
- Partially Implemented - Seven (7)
- Not Implemented - Nine (9)
- Un-ratable - Zero (0)
- Not Assessed - One (1)

It is the Expert's belief as the County continues to implement vital components of the Settlement Agreement, including those outlined in this report, the areas found other than Adequately Implemented will progress to an Adequately Implemented rating.

This report details the pre-monitoring tour document review, on-site monitoring, and staff and incarcerated person interviews and also includes findings and recommendations/actions the County must make to move towards meeting the mandates of the Settlement Agreement.

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## IV. Findings

### A. Systemwide Increase Of Minimum Out-Of-Cell Time

- A. *It is the intent of OCSD and CHS to provide as much out-of-cell time and programming to the incarcerated population as possible, consistent with security, classification, and operational needs.*
- B. *Absent exigent circumstances or exigent security concerns that are documented, the County shall offer each person in custody who is not housed in the Special Management Unit a minimum of twenty-four (24) hours out of their cell each week, as follows:*
  - 1. *At least (3) hours per day in a dayroom or other common area, for a total of at least twenty-one (21) hours per week.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Under normal circumstances, inmates will be afforded the opportunity to use the dayroom for a minimum of three hours per day, unless specific and articulable reasons exist for a shorter time period.”

The Expert recognizes that, at times, some mods or sectors continued to be impacted by COVID-19, which also impacted the ability for the County to provide the required three (3) hours per day of dayroom. This was due to the need for the OCSD to mitigate the risks of potentially spreading the virus.

The County produced the following OCSD Daily Activity Logs, which include the Dayroom and Recreation Logs for the following weeks:

- July 17-23, 2022
- August 7-13, 2022
- September 4-10, 2022
- October 23-29, 2022
- November 6-12, 2022

The Daily Activity Logs included the following:

- CMJ (Mods A, B, C, D, E, F, and O),
- CWJ (Mod P and Second Floor)
- IRC (Mods J, K, L, M, and N)
- TLF (AE Barracks, F Barracks, G Barracks, H Barracks, Mods I, K, L, M, N, O, P, Q, and R)

The County also produced the OCJ Housing Tables for the TLF, CMJ, CWJ, and IRC. The Expert notes that in some of the housing locations, which are open

dorms/tanks, the incarcerated persons have access to dayroom/out-of-cell activities unless they are confined to their bunks. These housing locations include:

- TLF
  - Mod J Sectors 10-12
  - Mod O Sector 37 – GP Dorm
  - A/E Barracks
  - F Barracks
  - G Barracks
  - H Barracks
- CMJ
  - Module A Tanks 1, 2, 5, and 6
  - Module B Tanks 7-10 (all Tanks)
    - The County Reports, “Inmates in Mod B do not have open access to dayroom. There is one dayroom per tank, shared by all cells in that tank (on a rotating schedule), and Staff must open each cell door to provide access to the dayroom. \*Same for Mod E.
  - Module C Tanks 11, 12, 15, and 16
  - Module D Tanks 17, 18, 21, and 22
  - Module E Tanks 23-26 (all Tanks)
  - Module F Tanks 27, 28, 31, and 32
  - Module O Ward C and D
  - Module R Tanks 4 and 5
- CWJ
  - Module G Tanks 1-4 (all Tanks)
  - Module H Tanks 5-8 (all Tanks)
- IRC
  - Module J Sector 3

During the on-site review, the Expert interviewed 61 incarcerated persons. Of the 61 incarcerated persons, 24 reported they are provided 3 hours of (out-of-cell time) dayroom per day, eighteen (18) reported they are not provided the required 3 hours of (out-of-cell time) dayroom per day, and 19 were housed in a dorm/tank with access to out-of-cell activities during their programming time. Thirty-nine (39) reported no additional dayroom was offered. Summarized below are the incarcerated persons who reported they were not provided the required 3 hours of dayroom per day and that no additional dayroom offered:

#### IRC

- Mod J - Newly arrived, dayroom 1.5 or less.
- Mod J - Arrived 2/2020, 1.5 hours dayroom sporadic.
- Mod J - Arrived 1/14, dayroom 1.5 hours.
- Mod L - Arrived 2/2022, dayroom 2 hours.
- Mod L - Arrived 7/22, dayroom.5 hours.

- Mod L - Arrived 10/21, dayroom 2 hours.
- Mod N - Arrived 12/21, dayroom 1-2 hours.
- Mod N - Arrived 11/22, dayroom 1-2 hours.
- Mod K - Arrived 11/21, dayroom 1 hour.
- Mod K - Arrived 8/22, dayroom 1 to 2 hours.
- Mod K – Arrived 1/23, dayroom 2 hours.
- Mod K – Arrived 12/22, dayroom 2 hours.

#### CMJ

- Mod O SL – Arrived 11/20/18, dayroom provided 1 to 1.5 hours a day.
- Mod O SL – Arrived 7/22, dayroom provided 2 hours a day.
- Mod O SL – Arrived 2 months ago, dayroom provided 1 to 2 hours a day.

#### TLF

- Mod L, Arrived 11/22, dayroom 2.5.

The Expert also reviewed a sampling of the logs. The findings are summarized below:

- CMJ Mod A 7/17/22 Population at time of review 145
  - There are 14 cells in tank #3; however, the log does not reflect cells 1, 4, 5, 7, 8, 9, 10, 11, 12, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom).
  - The County reports, “there were no inmates housed in Tank #3 that day”. The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs. There are 14 cells in tank #4; the County Reports the log does not reflect cells, 4, 6, 8, , 11, 12, 13, and 14 were offered three (3) hours of out-of-cell time (dayroom).  
The County reports, “Guard station log for Tank 14 shows cells #2 & 9 refused dayroom. Cells #4, 6, 8, 12, 13, & 14 were empty. Cell #11 shows dayroom accepted with start and stop times (3 hours given). The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - All incarcerated persons reflected on the log were provided the required three (3) hours of out-of-cell time (dayroom).
- CMJ Mod A 8/7/22 Population at time of review 145
  - There are 14 cells in tank #3; however, the log does not reflect cells 4, and 6-14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “No inmates were in Tank 3 on that day. Nothing on Guard Station Log. The Expert notes the daily Activity Log reflects in-cell breakfast was served to Tanks 1-4 at 0420 hours. The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.



- There are 14 cells in tank #4; however, the log does not reflect cells 4, 6, 8, 12, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom).
  - The County Reports, “these cells were empty on that day.”
  - The Expert notes the daily Activity Log reflects in-cell breakfast was served to Tanks 1-4 at 0420 hours. The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- One (1) incarcerated person reflected on the log refused out-of-cell time (dayroom).
  - The County Reports, “Log shows one person received 1:30 hours of dayroom, one received 2:55, the rest received full 3 hours or refused completely”.
- Following further review, the Expert noted one incarcerated person did refuse dayroom, the expert noted one incarcerated person received 1.5 hours of dayroom and an additional 3.0 hours previously and one (1) incarcerated person received 2.55 hours after refusing dayroom earlier in the day. CMJ Mod A 9/04/22 Population at time of review 168
  - There are 14 cells in tank #3; however, the log does not reflect cells 1,3,4, 5-14, and 11-14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “Cell #2 was the only occupied cell in Tank 3 on this date. Inmate accepted dayroom twice (7 hours total).
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #4; however, the log does not reflect cells 2, 4, 6, 8, 10, and 12-14 were offered or provided three (3) hours of out-of-cell time (dayroom).
  - Two (2) incarcerated persons reflected on the log were provided two (2) hours or less of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”
- The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs. CMJ Mod A 10/23/22 Population at time of review 162.
  - There are 14 cells in tank #3; however, the log does not reflect cells 3, 4, 6, 7, 8, 11-14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #4; the log does not reflect if cells 2, 3, 4, 6, 8, 10, and 12-14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”

- The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - Three (3) incarcerated persons reflected on the log were provided two (2) hours or less of out-of-cell time (dayroom).
    - The County Reports, “2 of the inmates accepted dayroom but asked to return to their cells prior to 3 hours. The third inmate received 3 hours, was offered dayroom again later, and received 45 minutes for their second round.
    - The Experts further review notes all incarcerated persons did in fact receive three (3) hours of dayroom.
- CMJ MOD A 11/06/22 Population at time of review 150
  - There are 14 cells in tank #3; however, the log does not reflect cells 2,3,6, 7, 9-14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County reports, “these cells were empty on that date.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #4; the log does not reflect if cells 2, 3, 4, 6, 8, 10, and 12-14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - Three (3) incarcerated persons reflected on the log were provided two (2) hours or less of out-of-cell time (dayroom).
    - The County Reports, “Log notes state 1 inmate accepted dayroom but asked to return to their cell prior to 3 hours. The other 2 had already received dayroom and received less than 3 hours on their second round.
    - The Experts further review revealed all incarcerated persons on the dayroom log for 11/06/2022 did receive three (3) hours of dayroom.
- CMJ Mod B 7/17/22 Population at time of review 118
  - There are four (4) tanks (8 cells in each tank); however, the log does not reflect the specific cells of the incarcerated persons who accepted or refused. The log reflects all cells were provided a minimum of three hours of out-of-cell time (dayroom).
- CMJ Mod B 8/07/22 Population at time of review 139
  - There are four (4) tanks (8 cells in each tank); however, the log does not reflect the specific cells of the incarcerated persons who

accepted or refused. The log reflects all cells were provided a minimum of three hours of out-of-cell time (dayroom).

- CMJ Mod B 9/04/22 Population at time of review 100
  - There are four (4) tanks (8 cells in each tank); however, the log does not reflect the specific cells of the incarcerated persons who accepted or refused. The log reflects all cells were provided a minimum of three hours of out-of-cell time (dayroom).
  - In cells 4 and 8, the log fails to reflect any offer or refusal.
- CMJ Mod B 10/23/22 Population at time of review 107
  - There are four (4) tanks (8 cells in each tank); the log reflects the specific cells that accepted or refused. The log reflects all cells were provided a minimum of three hours of out-of-cell time (dayroom).
- CMJ Mod B 11/06/22 Population at time of review 113
  - There are four (4) tanks (8 cells in each tank); however, the log does not reflect the specific cells of the incarcerated persons who accepted or refused. The log reflects all cells were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- CMJ Mod C 7/17/22 Population at time of review 189
  - There are 14 cells in tank #13; however, the log does not reflect cells 4, 6, 8, 9, 10, 11, 12, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #14; however, the log does not reflect cells 1, 3, 6, 7, 8, 9, 11, 12, and 13 and 14 were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod C 8/07/22 Population at time of review 178
  - There are 14 cells in tank #14; however, the log does not reflect cells 6, 7, 8, 9, 10, 11, and 12, and were offered or provided three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #13; however, the log does not reflect cells 2, 4, 6, 7, 8, 9, 10, 11, 12, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom).

- The County Reports, “these cells were empty on that date.
  - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod C 9/04/22 Population at time of review 193
    - There are 14 cells in tank #13; however, the log does not reflect cells 2,4,6, 8, 10, 11,12, and 13 were offered or provided three (3) hours of out-of-cell time (dayroom).
      - The County Reports, “these cells were empty on that date.”
      - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
    - There are 14 cells in tank #14; however, the log does not reflect cells 1, 2, 5, 6, 7, 8, 9, 10, 11,12, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom).
      - The County reports, “Cell 10 (Sanchez) refused dayroom, cell 14 accepted and received 3.5 hours. The remaining cells were empty on that date.
      - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - CMJ Mod C 10/23/22 Population at time of review 172
    - There are 14 cells in tank #14; however, the log does not reflect cells 2, 6, 7, 9, 10, 11, 12, and 13 were offered or provided three (3) hours of out-of-cell time (dayroom).
      - The County Reports, “these cells were empty on that date.”
      - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
    - There are 14 cells in tank #13; however, the log does not reflect cells 2, 4, 6, 8, 9, 10, 11, 12, and 13 were offered or provided three (3) hours of out-of-cell time (dayroom).
      - The County Reports, “these cells were empty on that date.”
      - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - CMJ Mod C 11/06/22 Population at time of review 168
    - There are 14 cells in tank #14; however, the log does not reflect cells 1,2,3,6,7,9,10,11,12, and 13 were offered or provided three (3) hours of out-of-cell time (dayroom).
      - The County Reports, “these cells were empty on that date.”
      - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
    - There are 14 cells in tank #13; however, the log does not reflect cells 1, 2, 4, 6, 7, 9, 10, 11, 12, and 13 were offered or provided three (3) hours of out-of-cell time (dayroom).
      - The County Reports, “these cells were empty on that date.”

- The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod D 7/17/22 Population at time of review 152
  - There are 14 cells in tank #19; however, the log does not reflect cells 2, 5, 9, 11-14, and were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only 7 in tank 19 received dayroom. Six (6) of those annotated did not receive three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #20; however, the log does not reflect cells 1, 5, 7, 9, 12, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only 8 in tank 19 received dayroom. Eight (8) of those annotated did not receive three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “these cells were empty on that date.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod D 8/07/22 Population at time of review 144
  - There are 14 cells in tank #20; however, the log does not reflect cells 1, 4, 6, 7, 8, 9, 10, 13, and 14, and were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only five (5) in tank 20 received dayroom. One (1) of those annotated did not receive three (3) hours of out-of-cell time dayroom.
    - The County reports, “These cells were empty on that date, except for cell 10, which received 3.5 hours of dayroom.”
    - Expert notes that cell 10 did receive 3 hours of dayroom.
    - The County reports, “Cell 2 received 3 hours of dayroom, was offered dayroom again, and received 2 hours on their next round.”
    - Expert notes Cell 2 unknown incarcerated person refused his 0600 hours opportunity to attend dayroom, the county advises the incarcerated person received two (2) hours on the second round, the Dayroom log reflects 1 hours 30 minutes.
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #19; however, the log does not reflect cells 4, 5, 7, 8, 9, 11, 12, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only six (6) in tank 19 received dayroom. Two (2) of those annotated did not receive three (3) hours of out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that date.

- The County reports, “Log shows only 1 inmate did not receive all 3 hours of dayroom.”
  - The Expert acknowledges the County reporting only one (1) received less than three hours of dayroom. However Expert notes there is no name regarding the 0600 hours’ time slot and must then assume these cells are single person cells, this information is not identified in the document production,
- The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs. CMJ Mod D 9/04/22 Population at time of review 144.
  - There are 14 cells in tank #19; however, the log does not reflect cells 2, 5, 9, 11-14, and were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only eight (8) in tank 19 received dayroom. Four (4) of those annotated did not receive three (3) hours of out-of-cell time (dayroom).
    - The County reports, Log shows cells 2, 5, and 9 received dayroom, however cells 2 and 5 did not receive all 3 hours. Cells 7, 8, 10-14 were empty.
    - The Expert find the above County reporting is in error, the Dayroom Log reveals cells 1 and 9 only received 3 hours of dayroom, cells 3, 4, 5, 2, 3, ,and 6.
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #20; however, the log does not reflect cells 1, 5, 7, 9, 12, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only seven (7) in tank 20 received dayroom. Five (50 of those annotated did not receive three (3) hours of out-of-cell time (dayroom).
    - The County reports, “Cells 7, 13 and 14 were empty.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod D 10/23/22 Population at time of review 144
  - There are 14 cells in tank #19; however, the log does not reflect cells 2, 3, 4, 6, 7, 8, 9, 11-14, and were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only three (3) in tank 19 received out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that day.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #20; however, the log does not reflect cells 2, 3, 4, 5, 7, 8, 10, 11, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only four (4) in tank 20 received out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that day.”



- The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod D 11/06/22 Population at time of review 144
  - There are 14 cells in tank #19; however, the log does not reflect cells 2, 3, and 5-14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only three (3) in tank 19 received out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that day. Tank had 2 inmates present (cells 1 and 4).”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #20; however, the log does not reflect cells 2, 4, 5, 7, 8, 10, 11, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only six (6) in tank 20 received dayroom, and three (3) did not receive three (3) hours of out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that day.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod F 7/17/22 Population at time of review 136
  - There are 14 cells in tank #29; however, the log does not reflect cells 2, 3, and 5-14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only five (5) in tank 29 received out-of-cell time (dayroom).
    - The County Reports, “Log shows cell 3 received 3 hours 14 minutes of dayroom. Cell 5 was offered dayroom twice and received 5 hours. Cell 13 received 4 hours of dayroom.”
    - The Expert acknowledges the Dayroom log and the Counties Reporting as accurate.
  - There are 14 cells in tank #30; however, the log does not reflect cells 2, 4, 5, 7, 8, 10, 11, 13, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only five (5) in tank 30 received dayroom. Two (2) annotated did not receive three (3) hours of out-of-cell time (dayroom).
    - The County reports, “Cells 5, 7, and 13 were offered and received dayroom.”
    - The Expert acknowledges the Dayroom log and the Counties reporting as accurate and strikes cells 5, 7 and 13 and initially not having dayroom. .
    - The County reports, “This tank had only 4 inmates that day. 1 of the 4 inmates received less than 3 hours. The rest received 3 or more.”
    - The Expert does not concur with the Counties reporting, noting the dayroom log reporting five separate names having

dayroom, one of those incarcerated persons received less than the three hours of dayroom.

- CMJ Mod F 8/07/22 Population at time of review 112
  - There are 14 cells in tank #30; however, the log does not reflect cells 2, 4, 6, 8, 10-14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflected only four (4) in tank 30.
    - The County reports, “These cells were empty on that day.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
  - There are 14 cells in tank #29; however, the log does not reflect cells 2, 4, 6, 8, 9, 10, and 12-14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only five (5) in tank 29 received out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that day.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod F 9/04/22 Population at time of review 140
  - There are 14 cells in tank #29; however, the log does not reflect cells 1, 2, 4, 6-10, and 12-14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only five (5) in tank 29 received out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that day.”
  - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs. There are 14 cells in tank #30; however, the log does not reflect cells 2, 3, 4, 6, 8, 9-14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflects only five (5) in tank 30 received out-of-cell time (dayroom). One (1) annotated did not receive three (3) hours of DR.
    - The County reports, “sector 30, cells 3 & 9 refused DR between 1200-1600 however cell 3 received 2 hours 20 min of DR later and cell 9 received 4 hours 40 min of DR later as well,” and all other cells stated were empty that day.”
    - The Expert acknowledges the Counties report, however, notes cell 3 did not receive 3 hours of dayroom, the Expert does concur that cell 9 did receive 3 hours of dayroom access.
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod F 10/23/22 Population at time of review 137
  - There are 14 cells in tank #29; however, the log does not reflect cells 1, 2, 3, 4, 5, 6, 8, 10-14 were offered or provided three (3) hours of

- out-of-cell time (dayroom). Log reflected only four (4) in tank 29 received out-of-cell time (dayroom).
    - The County reports, “sector 29, cell 5 received 3 hours and 5 min of DR. all other cells in question were empty that day.
    - The Expert acknowledges the Dayroom log and the Counties reporting as accurate and strikes cell 5 not having dayroom.
  - There are 14 cells in tank #30; however, the log does not reflect cells 4, 5, 6, 8, 10, 11, 12, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflected only six (6) in tank 30 received out-of-cell time (dayroom). One (1) annotated did not receive three (3) hours of out-of-cell time (dayroom).
    - The County reports, “These cells were empty on that day.”
    - The Expert notes the empty cell information, is not included in the Activity or Dayroom Logs.
- CMJ Mod F 11/06/22 Population at time of review 136
  - There are 14 cells in tank #29; however, the log does not reflect cells 2, 4, 6, 7, 8, 10-14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflected only four (4) in tank 29 received out-of-cell time (dayroom).
  - There are 14 cells in tank #30; however, the log does not reflect cells 2, 3, 4, 6, 8, 10, 11, 12, and 14 were offered or provided three (3) hours of out-of-cell time (dayroom). Log reflected only five (5) in tank 30 received out-of-cell time (dayroom).
- IRC Mod J 7/17/22 Population at time of review 78
  - Sector 1 - Dayroom ranged from four (4) minutes to two (2) hours 13 minutes. Incarcerated persons participating were identified, and none received three (3) hours of out-of-cell time (dayroom).
  - Sector 2 - All received three 3 hours of out-of-cell time (dayroom).
  - Sector 3 - PC-3, Dayroom offered all day.
  - Sector 4- Incarcerated persons did not receive three (3) hours of out-of-cell time (dayroom).
  - Sectors 5, 6, and 7- Sectors are empty.
  - Sector 8 (workers) - Dayroom offered all day. No hours are listed.
- IRC Mod J 8/07/22 Population at time of review 86
  - Sectors 1(Quarantine) - Dayroom ranged from 16 minutes to two (2) hours 10 minutes. Incarcerated persons participating were identified, one received three (3) hours of out-of-cell time (dayroom).
  - Sector 2 - All received three (3) hours of dayroom.
  - Sector 3(PC-3) Dayroom is offered all day.
  - Sector 4 - Incarcerated persons did not receive three (3) hours out-of-cell time (dayroom).
  - Sectors 5 and 6 – Sectors are empty.

- Sector 7 - No dayroom offered.
  - Sector 8(Medical Isolation)/COVUD Positive, 20 incarcerated persons assigned; none had three (3) hours of out-of-cell time (dayroom). All 20 received from 16 minutes to two (2) hours 18 minutes.
- IRC Mod J 9/04/22 Population at time of review 65
  - Sectors 1 -Dayroom ranged from 18 minutes to one (1) hour and 15 minutes. Incarcerated persons participating were identified, and none received three (3) hours of out-of-cell time (dayroom).
  - Sector 2 - All received three (3) hours out-of-cell time (dayroom)
  - Sector 3 (PC-3) - out-of-cell time (dayroom) offered all day.
  - Sector 4- Incarcerated persons did not receive three (3) hours.
  - Sector 5 (LGBTQI) - (One) 1-hour out-of-cell time (dayroom) offered.
  - Sector 6 (SMU) - 1 incarcerated person refused dayroom.
  - Sector 7 (Medical Isolation)- Two (2) Incarcerated persons received three (3) hours of dayroom; one (1) person received two (2) hours of dayroom.
  - Sector 8 (Medical Isolation)/COVID Positive) - No one received three (3) hours out-of-cell time (dayroom).
- IRC Mod J 10/23/22 Population at time of review 62
  - Sectors 1- Received three (3) hours of dayroom or refused, two (2) did not receive three (3) hours.
  - Sector 2 - Closed.
  - Sector 3(PC-3) - Dayroom offered all day. No hours are annotated; the log is blank.
  - Sector 4 - Two (2)hour dayroom, Incarcerated persons received anywhere from 16 minutes to six (6) hours of out-of-cell time (dayroom).
  - Sector 5 (NBQ) - No dayroom offered.
  - Sector 6 - Received three (3) hours of dayroom.
  - Sector 7- 10 incarcerated persons assigned, five (5) received three (3) hours dayroom, no other information from log available.
  - Sector 8(Medical Isolation/COVID Positive)- Two (2) received 1.25 hours of dayroom. Three (3)refused.
- IRC Mod J 11/06/22 Population at time of review 61
  - Sector 1- Received sporadic hours of dayroom or refused; two (2) persons received three (3) hours.
  - Sector 2- Sector closed.
  - Sector 3 (PC-3) - Dayroom offered all day. No hours annotated; log blank.

- Sector 4 - Two (2) hours of dayroom, Incarcerated persons received anywhere from 16 minutes to six (6) hours out-of-cell time (dayroom).
- Sector 5 (NBQ) - Empty
- Sector 6 - Received three (3) hours of dayroom.
- Sector 7- 12 incarcerated Persons assigned, all received three (3) hours of dayroom.
- Sector 8 (Medical Isolation COVID Positive -Two (2) received 38 minutes to 2.25 hours out-of-cell time (dayroom). Two (2) refused.
- IRC Mod K 7/17/22 Population at time of review 42
  - Sector 9 (Chronic) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 10 (LPS/Acute\_- No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 11 (Chronic/Medical)- No out-of-cell time (dayroom) logged, offered, or refused.
- IRC Mod K 8/08/22 Population at time of review 80
  - Sector 9 (Chronic)- No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 10 (LPS/Acute) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 11 (Chronic/Medical)- No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 12 (Acute) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 13 (Acute/LPS) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 14 (Medical) - No out-of-cell time (dayroom) logged, offered, or refused.
- IRC Mod K 9/04/22 Population at time of review 70
  - Sector 9 (Chronic) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 10 (LPS/Acute) -No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 11 (Chronic/Medical) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 12 (Acute) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 13 (Acute/LPS) - No out-of-cell time (dayroom) logged, offered, or refused.
  - Sector 10 (Medical) - No out-of-cell time (dayroom) logged, offered, or refused.

- IRC Mod K 10/23/22 Population at time of review 80
  - Sector 9 (Chronic) - A few received three (3) hours out-of-cell time (dayroom). Most did not.
  - Sector 10 (LPS/Acute) - A few received three (3) hours out-of-cell time (dayroom). Most did not.
  - Sector 11 (Chronic/Medical) - A few received three (3) hours out-of-cell time (dayroom). Most did not.
  - Sector 12 (Acute) - A few received three (3) hours out-of-cell time (dayroom). Most did not.
  - Sector 13 (Acute/LPS) - A few received three (3) hours out-of-cell time (dayroom). Most did not.
  - Sector 10 (Medical) - A few received three (3) hours out-of-cell time (dayroom). Most did not. Dayroom Log Documentation for 10/23/22 was copied inappropriately and impossible to decipher.
- IRC Mod K 11/06/22 Population at time of review 80
  - Sector 9 (Chronic) - Some received three (3) hours out-of-cell time (dayroom); others did not.
  - Sector 10 (LPS/Acute) - Some received three (3) hours out-of-cell time (dayroom); others did not.
  - Sector 11 (Chronic/Med) - Some received three (3) hours out-of-cell time (dayroom); others did not.
  - Sector 12 (Acute) - Some received three (3) hours out-of-cell time (dayroom); others did not.
  - Sector 13 (Acute/LPS) - Some received three (3) hours out-of-cell time (dayroom); others did not.
  - Sector 10 (Medical) - Some received three (3) hours out-of-cell time (dayroom); others did not.
- IRC Mod L 7/17/22 Population at time of review 91
  - Sectors 15, 16, 17, 18, 19, 20 - No incarcerated persons received three (3) hours out-of-cell time (dayroom). Dayroom logging was incomplete and poorly conducted.
- IRC Mod L 8/07/22 Population at time of review 89
  - Sectors 15, 16, 17, 18, 19, 20 - No incarcerated persons received three (3) hours out-of-cell time (dayroom). Dayroom logging was incomplete and poorly conducted.
- IRC Mod L 9/04/22 Population at time of review 92
  - Sectors 15, 16, 17, 18, 19, 20 - No incarcerated persons received three (3) hours out-of-cell time (dayroom). Dayroom logging was incomplete and poorly conducted.



- IRC Mod L 10/23/22 Population at time of review 88
  - Sectors 15, 16, 17, 18, 19, 20 - No incarcerated persons received three (3) hours out-of-cell time (dayroom). Some received 27 minutes to 1 hour 22 minutes out-of-cell time (dayroom), with some improvement in dayroom logging.
- IRC Mod L 11/06/22 Population at time of review 95
  - Sectors 15, 16, 17, 18, 19, and 20 - No incarcerated persons received three 3 hours of out-of-cell time (dayroom). Some received 27 minutes to 12 hours and 22 minutes out-of-cell time (dayroom), with some improvement in dayroom logging.
- IRC Mod M 7/17/22 Population at time of review 62 (All Sectors Quarantine)
  - Sectors 15, 16, 17, 18, 19, 20 - No incarcerated persons received three (3) hours out-of-cell time (dayroom). Some received 10 minutes to 1 hour 22 minute out-of-cell time (dayroom), with some improvement in dayroom logging.
- IRC Mod M 08/07/22 thru 11/06/22 dayroom logs were not provided.
- IRC Mod N 7/17/22 Population at time of review 120
  - Sectors 27, 28, 29, 30, 31, 32 - Sector 27 workers (8 incarcerated persons) and Sector 32 GP (17 incarcerated persons) in regular housing received three (3) hours out-of-cell time (dayroom). Incarcerated persons housed in Sectors 28 thru 31 received no more than 30 minutes of out-of-cell time (dayroom).
    - The County Reports, “These Sectors were designated for quarantine/COVID housing.”
- The Expert acknowledges the County reporting that Sectors 28 thru 31 were at the time designated as Quarantine/COVID Housing. IRC Mod N 8/08/22 Population at time of review 113
  - Sectors 27, 28, 29, 30, 31, 32 - Sector 27 workers (7 incarcerated persons) and Sector 32 GP (12 incarcerated persons) in regular housing received three (3) hours out-of-cell time (dayroom). Incarcerated persons housed in Sectors 28 thru 31 received no more than 30 minutes of out-of-cell time (dayroom).
    - The County Reports, “These sectors were designated for quarantine/COVID housing.”
    - The Expert acknowledges County reporting that Sectors 28 thru 31 were at the time designated as Quarantine/COVID Housing.
- IRC Mod N 09/04/22 Population at time of review 101
  - Sectors 27, 28, 29, 30, 31, 32 - Sector 27 workers (7 incarcerated persons) and Sector 32 GP (9 incarcerated persons) in regular

housing received three (3) hours out-of-cell time (dayroom). Incarcerated persons housed in Sectors 28 thru 31 received no more than 30 minutes of out-of-cell time (dayroom).

- The County Reports, “These sectors were designated for quarantine/COVID housing.”
  - The Expert acknowledges County reporting that Sectors 28 thru 31 were at the time designated as Quarantine/COVID Housing.
- IRC Mod N 10/23/22 Population at time of review 104
    - Sectors 27, 28, 29, 30, 31, 32 - Sector 27 workers (5 incarcerated persons) and Sector 32 GP (16 incarcerated persons) in regular housing received three (3) hours out-of-cell time (dayroom), other GP incarcerated persons received two (2) hours of out-of-cell time (dayroom).
      - The County reports, “Only 1 inmate in 27 received less than 3 hours, and the log states the inmate voluntarily returned to their cell and ended their day room (SLD = "Self-Lock Down"). Sector 32 had 2 inmates receive less than 3 hours. One was "SLD" after 30 minutes. The other received only 2 hours, with no notes explaining why. However, the inmate refused dayroom when offered earlier in the day at 0610 hours.
      - The Expert acknowledges the County's reporting.
    - Incarcerated persons housed in Sectors 28 thru 31 received no more than 30 minutes of out-of-cell time (dayroom).
      - The County Reports, “These sectors were designated for quarantine/COVID housing.”
      - The Expert acknowledges the County's reporting that Sectors 28 thru 31 were at the time designated as Quarantine/COVID Housing.
  - IRC Mod N 11/06/22 Population at time of review 121
    - Sectors 27, 28, 29, 30, 31, 32 - Sector 27 workers (8 incarcerated persons) and Sector 32 GP (17 incarcerated persons) in regular housing received three (3) hours out-of-cell time (dayroom). Incarcerated persons housed in Sectors 28 thru 31 received no more than 30 minutes of out-of-cell time (dayroom).
      - The County Reports, “These sectors were designated for quarantine/COVID housing.”
      - The Expert acknowledges the County reporting that Sectors 28 thru 31 were at the time designated as Quarantine/COVID Housing.
  - TLF Mod I 7/17/22 Population at time of review 76

- Sectors 1, 2, 3 - The log reflects none of the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
  - The County reports, “These sectors had several different classifications housed there, which prohibited staff from providing all inmates with 3 hours of dayroom. This was due to housing constraints resulting from the large need for quarantine/covid housing elsewhere (~700 beds).”
  - Expert acknowledges the County’s reporting that Sectors 1, 2, 3 had several different classifications due to Quarantine and COVID housing pressure elsewhere, prohibiting staff from providing all incarcerated persons with 3 hours of dayroom.
- Sectors 4, 5, 6 - The log reflects all incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod I 8/07/22 Population at time of review 74
  - Sectors 1, 2, 3 - The log reflects none of the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
    - The County reports, “These sectors had several different classifications housed there, which prohibited staff from providing all inmates with 3 hours of dayroom. This was due to housing constraints resulting from the large need for quarantine/covid housing elsewhere (~700 beds).”
    - Expert acknowledges County reporting that Sectors 1, 2, 3 had several different classifications due to Quarantine and COVID housing pressure elsewhere, prohibiting staff from providing all incarcerated persons with 3 hours of dayroom.
  - Sectors 4, 5, 6 - The log reflects all incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod I closed for remodeling on 8/14/22.
- TLF Mod J closed for remodeling until 8/22/22.
- TLF Mod J 9/04/22 Population at time of review 77
  - Sectors 7, 8, 9, 10, 11, and 12 - The log reflects all incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod J 10/22/22 Population at time of review 74
  - Sectors 7, 8, 9, 10, 11, and 12 - The log reflects all incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).

- TLF Mod J 11/06/22 Population at time of review 88
  - Sectors 7, 8, 9, 10, 11, and 12 - The log reflects all incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod K 7/17/22 Current Population 135
  - Sectors 13, 14, 15, 16, 17, 18 - The log reflects many of the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom). The log also reflects some incarcerated persons were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod K 8/07/22 Population at time of review 136
  - Sectors 13, 14, 15, 16, 17, 18 - The log reflects that incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod K 9/04/22 Population at time of review 116
  - Sectors 13, 14, 15, 16, 17, 18 - The log reflects that incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod K 10/23/22 Population at time of review 116
  - Sectors 13, 14, 15, 16, 17, 18 - The log reflects many of the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom). The log also reflects some incarcerated persons were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod K 11/06/22 Population at time of review 115
  - Sectors 13, 14, 15, 16, 17, 18 - The log reflects the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod L 7/17/22 Population at time of review 79
  - Sectors 19, 20, 21, 22, 23, 24 - The log reflects many of the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod L 8/7/22 Population at time of review 116
  - Sectors 19, 20, 21, 22, 23, 24 - The log reflects many of the incarcerated persons were provided a minimum of three (3) hours of

out-of-cell time (dayroom). The log also reflects some incarcerated persons were not provided a minimum of three (3) hours of out-of-cell time (dayroom). Sectors 22, 23 and 24, and 23 were quarantined.

- TLF Mod L 9/04/22 Population at time of review 126
  - Sectors 19, 20, 21, 22, 23, 24 - The log reflects none of the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom). Sectors 22, 23, and 24 were quarantined.
- TLF Mod L 10/23/22 Population at time of review 128
  - Sectors 19, 20, 21, 22, 23, 24 - The log reflects none of the incarcerated persons were provided a minimum of three (3) hours of out-of-cell time (dayroom). Sectors 22, 23, and 24 were quarantined.
- TLF Mod L 11/06/22 Population at time of review 139
  - Sectors 19, 20, 21, 22, 23, 24 - The log reflects most of the incarcerated persons were not provided a minimum of three (3) hours of out-of-cell time (dayroom). Specifically, eight (8) incarcerated persons did receive three (3) hours of out-of-cell time (dayroom). Sectors 22, 23, and 24 were quarantined.
- TLF Mod M 7/17/22 Population at time of review 142
  - Sectors 25, 26, 27, 28, 29, 30 - The Dayroom log reflects the incarcerated persons housed in Mod M were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod M 8/07/22 Population at time of review 148
  - Sectors 25, 26, 27, 28, 29, 30 - The Dayroom log reflects the incarcerated persons housed in Mod M were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod M 9/04/22 Population at time of review 140
  - Sectors 25, 26, 27, 28, 29, 30 - The Dayroom log reflects the incarcerated persons housed in Mod M were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod M 10/23/22 Population 141
  - Sectors 25, 26, 27, 28, 29, 30 - The Dayroom log reflects the incarcerated persons housed in Mod M were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod M 11/06/22 Population at time of review 148

- Sectors 25, 26, 27, 28, 29, and 30 The Dayroom log reflects the incarcerated persons housed in Mod M were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
  - The County Reports, “This Mod was designated for quarantine/COVID housing during that time period.”
  - Expert acknowledges County reporting that Mod M was designated as Quarantine / COVID Housing.
- TLF Mod N 7/17/22 Population at time of review 115
  - Sectors 31, 32, 33, 34, 35, 36 - The Dayroom log reflects the incarcerated persons housed in Mod N were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod N 8/07/22 Population at time of review 130
  - Sectors 31, 32, 33, 34, 35, 36 - The Dayroom log reflects the incarcerated persons housed in Mod N were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod N 9/04/22 Population at time of review 110
  - Sectors 31, 32, 33, 34, 35, 36 - The Dayroom log reflects the incarcerated persons housed in Mod N were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod N 10/23/22 Population at time of review 130
  - Sectors 31, 32, 33, 34, 35, 36 - The Dayroom log reflects the incarcerated persons housed in Mod N were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod N 11/06/22 Population at time of review 93
  - Sectors 31, 32, 33, 34, 35, 36 - The Dayroom log reflects the incarcerated persons housed in Mod N were not provided a minimum of three (3) hours of out-of-cell time (dayroom).
    - The County Reports, “This Mod was designated for quarantine/COVID housing during that time period.”
    - The Expert acknowledges County’s reporting that Mod M was designated as Quarantine/COVID Housing.
- TLF Mod O 7/17/22 Population at time of review 78
  - Sectors 37, 38, 39, 40, 41, 42 - The Dayroom log reflects that most incarcerated persons housed in Mod O were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod O 8/07/22 Population at time of review 73
  - Sectors 37, 38, 39, 40, 41, 42 - The Dayroom log reflects the most incarcerated persons housed in Mod O were provided a minimum of



three (3) hours of out-of-cell time (dayroom). There were also a few incarcerated persons who did not receive three (3) hours of dayroom.

- TLF Mod O 9/04/22 Population at time of review 78
  - Sectors 37, 38, 39, 40, 41, 42 - The Dayroom log reflects the most incarcerated persons housed in Mod O were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod O 10/23/22 Population at time of review 76
  - Sectors 37, 38, 39, 40, 41, 42 - The Dayroom log reflects the most incarcerated persons housed in Mod O were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod O 11/06/22 Population at time of review 68
  - Sectors 37, 38, 39, 40, 41, 42 - The Dayroom log reflects the most incarcerated persons housed in Mod O were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod P 7/17/22 Population at time of review 117
  - Sectors 43, 44, 45, 46, 47, 48 - The Dayroom log reflects the incarcerated persons housed in Mod P were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod P 8/17/22 Population at time of review 142
  - Sectors 43, 44, 45, 46, 47, and 48, the Dayroom log reflects the incarcerated persons housed in Mod P were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod P 9/04/22 Population at time of review 147
  - Sectors 43, 44, 45, 46, 47, 48 - The Dayroom log reflects the incarcerated persons housed in Mod P were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod P 10/23/22 Population at time of review 147
  - Sectors 43, 44, 45, 46, 47, 48 - The Dayroom log reflects the incarcerated persons housed in Mod P were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod P 11/06/22 Population at time of review 171
  - Sectors 43, 44, 45, 46, 47, 48 - The Dayroom log reflects most of the incarcerated persons housed in Mod P were provided a minimum of three (3) hours of out-of-cell time (dayroom). It appears

Group three (3) did not receive three (3) hours of out-of-cell time (dayroom); the log identifies about 1 hour and 15 minutes.

- TLF Mod Q 7/17/22 Population at time of review 107
  - Sectors 49, 50, 51, 52, 53, 54 - The Dayroom log reflects the incarcerated persons housed in Mod Q were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod Q 8/07/22 Population at time of review 109
  - Sectors 49, 50, 51, 52, 53, 54 - The Dayroom log reflects the incarcerated persons housed in Mod Q were provided a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod Q 9/04/22 Population at time of review 141
  - Sectors 49, 50, 51, 52, 53, 54 The Dayroom log reflects most of the incarcerated persons housed in Mod Q were provided a minimum of three (3) hours of out-of-cell time (dayroom). There are some who did not receive three (3) hours of out-of-cell time (dayroom).
- TLF Mod Q 10/23/22 Population at time of review 122
  - Sectors 49, 50, 51, 52, 53, 54 - The Dayroom log reflects the incarcerated persons housed in Mod Q were provided a minimum of three (3) hours of out-of-cell time (dayroom). Sectors 52 and 53 did not provide incarcerated persons three (3) hours of dayroom. Sector 50 was on quarantine status and did not provide the three (3) hours of out-of-cell time (dayroom).
    - The County reports, "Sector 52 was designated for newly booked quarantine inmates.
    - The Expert acknowledges County reporting that Mod Q, Sector 52 was designated as Quarantine/COVID Housing for newly booked quarantine incarcerated persons.
- TLF Mod Q 11/06/22 Population at time of review 107
  - Sectors 49, 50, 51, 52, 53, 54 - The Dayroom log reflects most of the incarcerated persons housed in Mod Q were provided a minimum of three (3) hours of out-of-cell time (dayroom). Sectors 52, 53, and 54 did not provide the required three (3) hours of out-of-cell time (dayroom).
- TLF Mod R 7/17/22 Population at time of review 109
  - Sectors 55, 56, 57, 58, 59, 60 - The Dayroom log reflects the incarcerated persons housed in Mod R did not receive a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod R 8/07/22 Population at time of review 143

- Sectors 55, 56, 57, 58, 59, 60 - The Dayroom log reflects the incarcerated persons housed in Mod R did not receive a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod R 9/04/22 Population at time of review 153
  - Sectors 55, 56, 57, 58, 59, 60 - The Dayroom log reflects the incarcerated persons housed in Mod R did not receive a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod R 10/23/22 Population at time of review 163
  - Sectors 55, 56, 57, 58, 59, 60 - The Dayroom log reflects the incarcerated persons housed in Mod R did not receive a minimum of three (3) hours of out-of-cell time (dayroom).
- TLF Mod R 11/06/22 Population at time of review 146
  - Sectors 55, 56, 57, 58, 59, 60 - The Dayroom log reflects the incarcerated persons housed in Mod R did not receive a minimum of three (3) hours of out-of-cell time (dayroom).

Based on incarcerated person interviews and review of documents, the Expert finds that the County does not consistently provide the required three (3) hours per day in a dayroom or other common area, or a total of at least twenty-one (21) hours per week. In addition, at times, staff do not log sufficient information for the Expert to determine if the incarcerated persons are being provided the required daily three (3) hours per day in a dayroom or other common area, for a total of at least twenty-one (21) hours per week. Some of the logs do not reflect the incarcerated person identifiers (name and booking number) for cases where there are multiple incarcerated persons in a dorm/tank and the incarcerated person accepted and/or refused dayroom. Based on this, the Expert finds that the County has partially implemented the RP requirements.

**Partially Implemented (Previous Rating Partially Implemented)**

- a. *OCSD will offer additional dayroom time beyond three (3) hours per day as scheduling and classification needs allow. To do so, OCSD will ensure that dayrooms in celled housing units will be available and occupied for use by incarcerated people from 0600 through 2300 hours daily, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (e.g., counts, searches). Once every incarcerated person in a celled housing unit has been offered use of the dayroom and, if they choose, used the dayroom for three hours in a day, OCSD shall offer another opportunity to use the dayroom to incarcerated people who already used the dayroom or were already offered but declined the opportunity to use the dayroom. OCSD shall make efforts to rotate these opportunities for additional dayroom among the incarcerated people in a housing unit or sector so that everyone in the unit or sector can have*

*approximately equal additional dayroom time. If everyone in the unit or sector has had an opportunity for dayroom time and everyone refuses any subsequent offer of additional dayroom time, dayroom will be closed for two hours. Incarcerated persons will then be offered dayroom on a recurring two-hour cycle for the remainder of the day. If a pattern develops that an incarcerated person is refusing an offer of dayroom time in an apparent attempt to obtain a specific dayroom time, the incarcerated person will be informed that the specific dayroom time will not be offered and will be given the opportunity to accept the offered time.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “It is expected that dayrooms will generally be available for use by inmates from 0600 through 2300 hours daily. The schedule will rotate on a daily basis to provide a variety of dayroom times for each inmate or group. If the inmate or group scheduled declines the dayroom opportunity, bypass the declining inmate or group and offer dayroom to the next inmate or group on the scheduled rotation. If all inmates decline dayroom, staff shall continue to offer dayroom in the scheduled rotation until an inmate or group accepts. This rotation will be ongoing until 2300 hours.”

In the review of the Day Room Logs listed in Section B. 1 above, the Expert found that the dayrooms were not available from 0600 to 2300 Mod on the following days:  
CMJ

- Mod A 7/19/22- Dayroom opened at 0615 (closed at 2330)
- Mod A 10/22/22- Dayroom opened at 0630 (closed at 2300) per activity log; however, the Dayroom log indicated the dayroom opened at 0600.
- Mod B 7/17/22 – Dayroom open at 0700 (closed at 2300)
- Mod B 7/18/22 – Dayroom open at 0720 (closed at 2314)
- Mod B 7/19/22 – Dayroom open at 0700 (closed at 2305)
- Mod B 7/20/22 – Dayroom open at 0720 (closed at 2310)
- Mod B 7/21/22 – Dayroom open at 0710 (closed at 2320)
- Mod B 8/08/22 – Dayroom open at 0700 (closed at 2008)  
This trend of Mod B opening late continued until September, then appeared to be corrected.
- Mod C 11/10/22 – Dayroom closed at 2115 (open at 0600)
- Mod F 7/17/22 – Dayroom open at 0620 (closed at 2230)
- Mod F 8/13/22 – Dayroom open at 0618 (closed at 2300)
- Mod F 7/17/22 – Dayroom open at 0615 (closed at 2300)
- Mod F 9/10/22 – Dayroom open at 0830 (closed at 2300)

IRC

- Mod J 7/17/22 – Dayroom open at 0641 (closed at 2300)
- Mod J 8/11/22 – Dayroom open at 0600 (closed at 2000)
- Mod K 8/12/22 – Dayroom open at 0600 (closed at 2200)
- Mod K 9/08/22 – Dayroom open at 0600 (closed at 2200)

Mod K 10/24/22 – Dayroom open at 0600 (closed at 2200)

This trend of Mod K closing at 2200 hours continued until September then appeared to be corrected.

- Mod L 7/18/22 – Dayroom open at 0600 and (closed at 2200)
- Mod L 8/13/22 – Dayroom open at 0600 (closed 2230 other sectors 2200)
- Mod L 10/28/22 – Dayroom open at 0600 (closed at 2200 or earlier)
- Mod M 7/18/22 – Dayroom open at 0600 (closed at 2200 or earlier)
- 

#### TLF

- Mod J 9/04/22 – Dayroom open at 0600 and closed when all groups completed one (1) three (3) hour dayroom session, closing times 2012 hours.
- Mod J 10/27/22 - Dayroom open at 0600 and closed when all groups completed one (1) three (3) hour dayroom session, closing times 2017 hours.
- Mod K 7/17/22 - Dayroom open at 0600 and closed when all groups completed one (1) three (3) hour dayroom session. No sector dayrooms were open until 2300 hours.
- Mod K 9/05/22 - Dayroom opened at 0600 and closed when all groups completed one (1) three (3) hour dayroom session. No sectors dayroom open until 2300 hours.
- Mod K 10/27/22 - Dayroom open at 0600 and closed when all groups completed one (1) three (3) hour dayroom session. No sectors dayroom open until 2300 hours.
- Mod K 11/11/22 - Dayroom opened at 0600 and closed when all groups completed one (1) three (3) hour dayroom session. No sector dayroom open until 2300 hours.
- Mod L 7/17/22 - Dayroom open at 0600 and closed when all groups completed one (1) three (3) hour dayroom session. No sector dayroom open until 2300 hours.
- Mod L 9/04/22 - Dayroom opened at 0645 and closed when all groups completed one (1) three (3) hour dayroom session. No sectors dayroom open until 2300 hours.
- Mod L 10/25/22 - Dayroom open at 0645 and closed when all groups completed one (1) three (3) hour dayroom session. One (1) sector dayroom open until 2300 hours.
- Mod M 7/17/22 - Dayroom hours varied greatly, and each period lasted no longer than 40 minutes.
- Mod M 8/12/22 - Dayroom hours varied greatly, and each period lasted no longer than 40 minutes.
- Mod M 9/04/22 - Dayroom hours varied greatly, and each period lasted no longer than 40 minutes.

- Mod M 10/23/22 - Dayroom hours varied greatly, and each period lasted no longer than 40 minutes.
- Mod M 11/12/22 - Dayroom hours varied greatly, and each period lasted no longer than 40 minutes.
- Mod N 7/17/22 - Dayroom hours 0600-2300 each period lasted no longer than 40 minutes.
- Mod N 8/07/22 - Dayroom hours 0600-2300, and each period lasted no longer than 40 minutes.
- Mod N 9/04/22 - Dayroom hours 0600-2300, and each period lasted no longer than 40 minutes.
- Mod N 10/23/22 - Dayroom hours 0600-2300, and each period lasted no longer than 40 minutes.

The Expert interviewed forty-four (44) incarcerated persons assigned to celled housing. Forty (40) of the incarcerated persons stated the County rotates the access to dayroom opportunities daily. Thirty-five (35) incarcerated persons stated they are not offered or provided additional access to dayroom opportunities (i.e., a second or additional dayroom session). Nine (9) incarcerated persons stated they are afforded additional access to additional dayroom opportunities (i.e., a second or additional dayroom session). Eleven incarcerated persons stated they do not receive the three (3) hours of out-of-cell time (dayroom). The Expert's review found that only the CMJ logs reflect additional dayroom time being offered.

The daily Activity Logs reflect events related to the safety and security of the institution (e.g., several daytime counts and searches); additionally, the Expert finds medication distribution and meal serving as activities that cause dayroom access to be closed temporarily.

Experts notes only two Mods utilize the four (4) separate groups method, each receiving 3 hours of access to dayroom, no additional dayroom is offered. Furthermore, it appears many of the Mods operate dayroom access by classification identification.

The Expert finds that the County is not consistently operating the dayrooms during the hours of 0600 through 2300. Additionally, at times, the County does not offer additional dayroom time beyond the three (3) hours per day when the dayrooms are available. Based on this, the Expert finds that the County has Partially Implemented the RP requirements.

#### **Partially Implemented (Previous Rating Partially Implemented)**

- b. *When people are provided dayroom time, OCSD staff will ensure they have ready access to toilet facilities. This may be accomplished by staff opening their cell door*



*promptly upon request (and allow them to return to dayroom after using the toilet/sink), or other appropriate procedure.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Inmates will be provided access to the telephones during outdoor recreation or during designated telephone use times. Inmates will be permitted to return to their cell to use the restroom unless restrooms are located in the dayroom area. If an inmate returns to their cell to use the restroom, the inmate will be permitted to return to the dayroom at the completion of their use of the restroom.

All incarcerated persons interviewed reported that staff provides access to toilet facilities (allowing them to enter their cell) when they are participating in the dayroom program and that staff allows them to return to the dayroom as well.

Based on this, the Expert finds that the County has adequately Implemented the RP requirements.

**Adequately Implemented (Previous Rating Adequately Implemented)**

- c. *OCSD shall document if there are exigent circumstances, if a person is at court, or if the person is at an off-site medical appointment, so as to preclude the provision of minimum dayroom time on a given day.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Under normal circumstances, inmates will be afforded the opportunity to use the dayroom for a minimum of three hours per day, unless specific and articulable reasons exist for a shorter time period. In such cases, the reasons will be thoroughly documented in the guard station daily log by the respective deputy or correctional services assistant.”

In a review of the logs, the Expert notes that staff documents the cases where an incarcerated person is in court; however, there were no entries for cases where the incarcerated person was at an off-site medical appointment. There is a possibility that for the dates the Expert reviewed the logs, there were no incarcerated persons who were at an off-site medical appointment.

Based on this, the Expert finds that the County has adequately Implemented the RP requirements.

**Adequately Implemented (Previous Rating Adequately Implemented)**

- d. *Scheduled programming in the dayroom may be included in the three hours per day of dayroom time.*



The County reported that due to the impact of COVID-19, there were limited in-person programming opportunities and no cases where the County provided programming in the dayrooms. During future monitoring, the Expert will evaluate this requirement.

**Not Assessed (Previous Rating Not Assessed)**

*2. At least three (3) hours per week outdoors for exercise and/or recreation.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Staff shall afford each inmate the opportunity to participate in a minimum of three hours of outdoor recreation per week, distributed over at least two separate days. Security concerns may necessitate the cancellation or reduction of scheduled recreation time. In the event of a cancellation or failure to provide the minimum required opportunities for recreation, the watch commander shall be notified and the reason for the cancellation or failure shall be documented in the appropriate log.”

The Expert recognizes that, at times, COVID-19 impacted the ability for the County to provide the required three (3) hours per week of recreation. This was due to the need for the OCSD to mitigate the effects of potentially spreading the virus.

The County produced the following OCSD Daily Activity Logs, which include the Recreation Logs for the following weeks:

- July 17-23, 2022
- August 7-13, 2022
- September 4-10, 2022
- October 23-29, 2022
- November 6-12, 2022

The Daily Activity Logs included the following:

- CMJ (Mods A, B, C, D, E, F, and O),
- CWJ (Mod P and Second Floor)
- IRC (Mods J, K, L, M, and N)
- TLF (Mods AE Barracks, F Barracks, G Barracks, H Barracks, Mods I, K, L, M, N, O, P, Q, and R)

The Expert interviewed 61 incarcerated persons. Of the 61 incarcerated persons, 39 reported they are provided 3 hours of recreation yard per week, and 24 stated they were not afforded the opportunity or received less than the three (3) hours of access to the recreation yard. Some Incarcerated Persons indicated it was too cool outside in the evening when access to the recreation yard was offered, and cool

weather clothing is not provided. Summarized below are the incarcerated persons who reported they were not provided the required three (3) hours of yard per week:

TLF

- Mod Q – Provided one and a half hours a week (1.5).
- Mod O – Yard not offered.
- Mod O – Yard offered one (1) time in one (1) month.
- Mod M – Provided one and a half hours a week (1.5).
- Mod M – Provided one and a half hours a week (1.5).
- Mod L – Provided 1 hour a week.

IRC

- Mod J– Provided yard one (1) time for 1 to 2 hours.
- Mod J– Provided yard one (1) time for 1 to 2 hours.
- Mod J– Provided yard one (1) time for 1 to 2 hours.
- Mod K – Provided yard 1.5 hours one (1) time a week.
- Mod K – Provided yard 1.5 hours one (1) time a week.
- Mod K – Provided yard 1.5 hours one (1) time a week.
- Mod K – Offered yard 1.5 hours one (1) time a week, refused too cold.
- Mod L – Provided yard one (1) time for 40 minutes in the past two (2) months.
- Mod L – Provided yard one (1) time for 4 to 6 hours.
- Mod N – Provided yard 1.5 hours one (1) time a week.
- Mod N– Provided yard 1-2 hours one (1) time a week.
- Mod K – Provided yard 1.5 hours one (1) time a week.

CWJ

Mod G- Offered twice in 21 days.

Mod H- Provided yard 1.5 hours one (1) time a week. Communication with the population regarding yard access is poor.

CMJ

- Mod B– Provided yard 2 hours one (1) time a week.
- Mod B– Provided yard 2 hours one (1) time a week.

The Expert also reviewed a sampling of the logs. The findings are summarized below:

- CMJ
  - Mod A Population at time of review 147 - Consists of Tanks 1, 2, 3, 4, 5, and 6. Four (4) tanks are dormitory housing, and two (2) tanks are two-man celled housing. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 44 "Takers" in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).

- Mod B Population at time of review 115 - Consists of Tanks 7, 8, 9, and 10; all are dormitory-style housing. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 68 "Takers" in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod C Current population 199 - Consists of Tanks 11, 12, 13, 14, 15, and 16. Four (4) tanks are dormitory housing, and two (2) tanks are two-man celled housing. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 75 "Takers" in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod D Population at time of review 152 - Consists of Tanks 17, 18, 21, and 22 are dorm-style housing, Tanks 19 and 20 consists of 14 2-man cells in each tank. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 142 "Takers" in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard). Tank 19, according to logs, were not offered any recreation opportunities.
- Mod E Current population 118 - Consists of four tanks, 23, 24, 25, and 26, and are dorm-style housing in each tank. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 100 "Takers" in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod F Population at time of review 136 -Consists of six tanks, 27, 28, 31, and 32 are dorm-style housing, tanks 29 and 30 each have 14-2-man cells. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 151 "Takers" in fourteen days; all those takers were housed in dorms, and only two-celled persons received any yard. The Recreation logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod O Population at time of review 35 - Consists of two dormitory-style housing wards, Ward C and Ward D, and 18 2 and 3 bunk cells for Sheltered Living. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 22 "Takers" in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).

- CWJ

Second Floor Population at time of review 285 - Dormitory style housing, Activity, and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 229 "Takers" in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).

- IRC
  - Mod J Population at time of review 76 - Consists of eight (8) sectors, each of two or one-person celled housing. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 16 incarcerated persons who participated in recreation in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
  - Mod L Population at time of review 41 - Consists of Sectors 9, 10, 11, 12, 13, and 14; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 42 incarcerated persons who participated in recreation in fourteen days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
  - Mod M Population at time of review 62 - Consists of Sectors 21, 22, 23, 24, 25, and 26; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/23 reflect two (2) incarcerated persons who participated in recreation in seven days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
  - Mod N Population at time of review 62 - Consists of Sectors 27, 28, 29, 30, 31, and 32; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 27 incarcerated persons who participated in recreation in fourteen (14) days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- TLF
  - AE Barracks Population at time of review 126 - Consists of Barracks A, B, C, and D; each Barracks is dormitory-style housing with 102 bunks. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 22 incarcerated persons participated in recreation in fourteen (14) days, however, does not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard). The logs did reveal that in the week of July, recreation yard was not offered. In the week of November, yard was offered twice.

- F Barracks Population at time of review 145 - Consists of two sides, East Side and West Side; each side has 192 bunks. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect 13 incarcerated persons who participated in recreation in July and nine (9) incarcerated persons in November. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard) or why the yards were closed. The logs did reveal in the week reviewed in July yard was offered on one (1) day. In the week reviewed in November, yard was offered once.
- G Barracks Population at time of review 192 - Consists of two sides, East Side and West Side; each side has 192 bunks. Activity and Recreation logs dated 7/17 thru 7/23 and 11/06 thru 11/12 reflect three (3) opportunities for incarcerated persons in G Barracks to recreate. The recreation or Activity Logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard) or why the yards were closed. The logs revealed in the 14 days reviewed (July), yard was offered twice.
- Mod I Population at time of review 77 - Consists of Sectors 1, 2, 3, 4, 5, and 6; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 reflect 91 incarcerated persons who participated in recreation in 5 days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod J Population at time of review 77 - Consists of Sectors 7, 8, 9, 10, 11, and 12; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 9/04 thru 9/10 reflect 71 incarcerated persons who participated in recreation in seven (7) days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod K Current population 133 - Consists of Sectors 13, 14, 15, 16, 17, and 18, each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 and 11/06 thru 11/12 reflect 42 incarcerated persons who participated in recreation in 14 days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod L Population at time of review 76 - Consists of Sectors 19, 20, 21, 22, 23, and 24; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 21 and 11/06 thru 11/12 reflect 23 incarcerated persons who participated in recreation in 14 days. These logs do not provide sufficient information to

determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).

- Mod M, Population at time of review 154 - Consists of Sectors 25, 26, 27, 28, 29, and 30 each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 and 11/06 thru 11/12 reflect 19 incarcerated persons participated, and 62 refused recreation in July, no recreation was offered in November. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod N Population at time of review 116 - Consists of Sectors 31, 32, 33, 34, 35, and 36; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 and 11/06 thru 11/12 reflect five (5) incarcerated persons participated and six (6) refused recreation in 14 days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod O Population at time of review 77 - Consists of Sectors 37, 38, 39, 40, 41, and 42. Mod O utilizes Sector 37 and 42 for ADA. Activity and Recreation logs dated 7/17 thru 7/21 and 11/06 thru 11/12 reflect 33 incarcerated persons participated, and 70 refused recreation in 14 days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod P, Population at time of review 119 - Consists of Sectors 43, 44, 45, 46, 47, and 48; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 and 11/06 thru 11/12 reflect 328 incarcerated persons who participated in recreation in 14 days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- Mod Q Current population 107 - Consists of Sectors 49, 50, 51, 52, 53, and 54; each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 and 11/06 thru 11/12 reflect 163 incarcerated persons participated, and 95 refused recreation in 14 days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).
- (The Mod Q Recreation Logs for the dates of 7/17 thru 7/19 and 11/06 were very well done, accurately depicting who accepted and who refused recreation.)
- Mod R Population at time of review 124 - Consists of Sectors 55, 56, 57, 58, 59, and 60. Each sector consists of thirty-two (32) bunks. Activity and Recreation logs dated 7/17 thru 7/21 and 11/06 thru



11/12 reflect no incarcerated persons participated in recreation in 14 days. These logs do not provide sufficient information to determine if all the incarcerated persons were offered or provided the required three (3) hours of recreation (yard).

The RP requires the County to utilize an effective electronic system for documenting and tracking the amount of out-of-cell time that each person in custody is offered and receives. The Expert recommends that the County ensure staff documents sufficient detailed information to track and log the RP requirements. Additionally, for future monitoring, the Expert requests that the County provide the logs maintained by staff who supervise the outdoor recreation areas at the CJX "Roof" and the "Green Sector." The County has reported that the Guardian RFID system will be implemented in the future. This system will assist the County in tracking and logging out-of-cell activities, including recreation time, offered and provided.

The County does not consistently provide the required three (3) hours minimum per week of outdoor exercise and/or recreation. In addition, at times, staff do not log sufficient information for the Expert to determine if the incarcerated persons are being provided the required three (3) hours minimum per week of outdoor exercise and/or recreation. Some of the logs do not reflect the incarcerated person identifiers (name and booking number) for cases where multiple incarcerated persons were offered and provided outdoor/exercise and/or recreation, and the logs simply reflect the number of "Takers." Based on this, the Expert finds that the County has partially implemented the RP requirements.

#### **Partially Implemented (Previous Rating Partially Implemented)**

- a. *OCSD will offer additional outdoor exercise and/or recreation time beyond three (3) hours per week as scheduling and classification needs allow. To do so, OCSD will ensure that all outdoor recreation areas are in use by incarcerated people from 0600 through 2300 hours daily, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (e.g., counts, searches). For the outdoor space adjacent to the Theo Lacy Barracks (the "Green Sector"), where artificial lighting is unavailable, OCSD will ensure that the Green Sector is in use by incarcerated people during daylight hours, except in cases of emergency and as necessary for particular events related to the safety and security of the institution (e.g., counts, searches). Once every incarcerated person has been offered use of the outdoor recreation area and, if they choose, used the outdoor recreation area for three hours per week, OCSD shall offer additional opportunities to use the outdoor recreation area to incarcerated people who already used the outdoor recreation area or were already offered the opportunity to use the outdoor recreation area. OCSD shall make efforts to rotate these opportunities for additional outdoor recreation among the incarcerated people so that everyone can have approximately equal additional*



*outdoor recreation time. If everyone in the unit or sector has had an opportunity for outdoor recreation time and everyone refuses any subsequent offer of additional outdoor recreation time, outdoor recreation will be closed for two hours. Incarcerated persons will then be offered outdoor recreation on a recurring two-hour cycle for the remainder of the day. If a pattern develops that an incarcerated person is refusing an offer of outdoor recreation time in an apparent attempt to obtain a specific outdoor recreation time, the incarcerated person will be informed that the specific outdoor recreation time will not be offered and will be given the opportunity to accept the offered time.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation does not address these requirements.

Most of the incarcerated persons interviewed reported that they are not offered and provided additional outdoor exercise and/or recreation time beyond three (3) hours per week. The incarcerated persons reported that the recreation yards, at times, remain vacant throughout the day (this is primarily at the TLF). The incarcerated persons also reported that they are not always provided access to outdoor recreation during the hours of 0600 through 2300. This claim appears to be factual as upon reviewing Recreation Logs, several recreation yards are opened at 0700 hours, and close at 1645 hours. The yards reopen at 1900 hours and close at 2300 hours.

In a review of the Recreation Logs, the Expert found cases where the outdoor recreation yards were not in use during the required hours of 0600 through 2300.

A summary of the findings is as follows.

- CMJ
  - Reviews of the Roof Recreation Log from CMJ for July 7/17 thru 7/24 revealed the recreation yard did not open prior to 0700 hours, closure of the yard averaged at 1645 hours and reopened at 1900 hours and closed again at 2300 hours. The week of November 11/06 thru 11/13 revealed the recreation yard opened at approximately 0600 hours, temporarily closed at 1830 hours, and reopened at 1900 hours and closed at 2300 hours.
  - Regular Housing Tanks. For the week reviewed (7/08-7/14), recreation yard access started at an average of 0630 hours, with opening times ranging from 0615 to 0700 hours and closure at 2300 hours. A review of week 11/11 thru 11/17 revealed yard access averaged opening at 0615 hours and closed at about 2230 hours, with closure times ranging between 2100 and 0245 hours. Sheltered Living. The recreation log review of week 7/08-7/14 revealed yard access no earlier than 0830 hours and closure at 2300 hours. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0600 hours and closure at 2245 hours.

- Mod A Tanks 3 and 4. Recreation log review of week 7/08-7/14 revealed yard access no earlier than 0740 hours and closure no time annotated. All refusals for 14 days. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0600 hours and closure unknown. All refusals.
- Mod C Tanks 13 and 14. Recreation log review of week 7/08-7/14 revealed yard access no earlier than 0740 hours and closure not annotated. All refusals for 14 days. A review of week 11/11 thru 11/17 revealed yard access no earlier than 1000 hours and closure at 2100 hours.
- Mod D Tanks 19 and 20. The recreation log review of week 7/08-7/14 revealed yard access no earlier than 0745 hours and closure at 1100 hours. One taker, all other refusals. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0600 hours and closure unknown and not annotated. All refusals.
- Mod F Tanks 29 and 30. The recreation log review of week 7/08-7/14 revealed yard access no earlier than 0745 hours and closure at 1300 hours. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0800 hours and closure unknown and not annotated.
- Mod R Civil and Sexual Predators. The recreation log review of week 7/08-7/14 revealed yard access no earlier than 00715 hours and closure at 2300 hours. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0900 hours and closure at 2250 hours.
- TLF
  - Green Sector (Note: Pursuant to the Remedial Plan, this recreation area is expected to be in use during daylight hours) – Earliest time the recreation yard was open was 0815, and the latest the recreation yard was open was 1531 hours. Mod I – Recreation log review of 7/17 thru 7/21 revealed the earliest time the recreation yard was open was 0800 (one day only), and the latest the recreation yard was open was 2300 (one time only). The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.
  - Mod J – Recreation log review of 9/04 thru 9/09 revealed the earliest time the recreation yard was open was 0840 (all other days 1000 hours), and the latest the recreation yard was open was 2040. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0600 hours and closure at 2251 (one time only). The logs reflect the recreation yard was not in use for periods of time with no documentation of the reason.
  - Mod K Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was open was 0700, and the latest the

recreation yard was open was 2033. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0700 hours and closure at 2000. The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.

- Mod L Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was open was 0700, and the latest the recreation yard was open was 2000. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0840 hours and closure at 1400 hours. The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.
- Mod M Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was open was 0635, and the latest the recreation yard was open was 2304. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0700 hours and closure at 0900. The logs reflect the recreation yard was not in use for six (6) days, with no documentation of the reason.
- Mod N Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was not opened due to was 1350, and the latest the recreation yard was open was 1630 hours. A review of week 11/11 thru 11/17 revealed yard access was not opened due to all refusals. The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.
- Mod O Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was open was 0756, and the latest the recreation yard was open was 2305. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0900 hours and closure at 2333 hours. The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.
- Mod P Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was open was 0614 and the latest the recreation yard was open was 2255 hours. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0557 hours and closure at 2000 hours. The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.
- Mod Q Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was open was 0830 and the latest the recreation yard was open was 1945. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0800 hours and closure at 2006 hours. The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.
- Mod R Recreation log review of 7/17 thru 7/23 revealed the earliest time the recreation yard was opened one day at 0800 and immediately closed. A review of week 11/11 thru 11/17 revealed yard access no earlier than 0930 hours and closure at 1046 hours.

The logs reflect the recreation yard was not in use for extended periods of time, with no documentation of the reason.

The Expert's review noted on multiple dates, the yards remain vacant and not in use for extended periods of time. On these dates, the logs reflect the recreation yards are only in use at times for two-hour periods. The County must ensure the recreation yards are available and in use from the hours of 0600 to 2300, as required by the RP.

The County must ensure additional outdoor exercise and/or recreation time beyond the three (3) hours per week are offered and provided as scheduling and classification needs allow. The County must ensure the outdoor space adjacent to the Theo Lacy Barracks (the "Green Sector") is utilized by incarcerated persons during daylight hours, except in cases of emergency and as necessary for particular events necessitated by the safety and security needs of the institution. Based on this, the Expert finds that the County has partially implemented the RP requirements.

**Partially Implemented (Previous Rating Partially Implemented)**

- b. OCSD shall document if exigent circumstances or inclement weather affecting the safety of the outdoor recreation area preclude the provision of the minimum outdoor time in a given week.

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, "Under normal circumstances, inmates will be afforded the opportunity to use the dayroom for a minimum of three hours per day, unless specific and articulable reasons exist for a shorter time period. In such cases, the reasons will be thoroughly documented in the guard station daily log by the respective deputy or correctional services assistant. Documented security concerns may necessitate the reduction or cancellation of scheduled dayroom time. A sergeant or the watch commander must approve any changes prior to implementation. If an exigency prevents prior approval, staff will notify a supervisor as soon as practical for approval. The reduction or cancellation will be documented in the guard station daily log along with the name of the approving supervisor. If an inmate has an Individual Inmate Activity Log, the cancellation or reduction will also be documented there."

In a review of the Recreation Logs, the Expert found there are some cases where staff logged the reasons the required outdoor recreation was not available/operational. However, the logs reviewed reflect multiple times the required recreation time was not provided, and no documentation is included in the logs reflecting the reasons precluding the provision of the minimum outdoor time in the given week. Based on this, the Expert finds that the County has partially implemented the RP requirements.

### **Partially Implemented (Previous Rating Not Implemented)**

3. *OCSD will offer additional programming, including through electronic tablets, that will be available for use when people are confined to their cells, among other times.*

OCSD expects that the electronic tablet program will be rolled out by the first quarter of 2023 and that tablets will be provided. OCSD will take affirmative steps to ensure that electronic tablet programming is accessible to people with disabilities (e.g., vision). Rollout will continue to be reviewed in future monitoring reports.

### **Not Implemented (Previous Rating Not Implemented)**

- C. *Consistent with safety and security needs, the County shall take steps to maximize opportunities for people in celled housing units to interact with others during the out-of-cell time.*

The County reports that based on classification case factors, incarcerated persons, and routinely evaluated for placement within compatible groups. This includes incarcerated persons with higher classification factors and safety and security needs (Protective Custody and Administrative Housing).

Based on this, the Expert finds that the County has adequately implemented the RP requirement. This finding is based on the current County classification practice of reviewing the incarcerated persons classification case factors and evaluating compatibility for out-of-cell activities (exercise/dayroom) groups. This compatibility review is initially for cellmates who can exercise together then it is expanded to additional cells. Although the County conducts these reviews, the Expert believes the annual classification review process can positively increase the County's ability to provide additional out-of-cell (dayroom) and recreation opportunities). For example, an incarcerated person who is found guilty of any infraction for assaulting another incarcerated person or staff could be evaluated for a decrease in their classification based on disciplinary-free periods. During the annual classification review, for each period of disciplinary-free conduct, the classification score can be incrementally lowered. This classification enhancement would increase the County's ability to provide more out-of-cell opportunities by creating a larger mix of compatible groupings. This would allow incarcerated persons whose classification scores have been lowered to progress to less restrictive housing while also enhancing the programming opportunities and pro-social interaction with others.

### **Adequately Implemented (Previous Rating Partially Implemented)**

- D. *The County will make best efforts to accommodate individual needs regarding the time of day for out-of-cell time (e.g., for people with disabilities impacting fatigue, on sleep medications, etc.).*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation does not address these requirements.

There were no complaints from the incarcerated persons related to the lack of accommodations regarding the time of day for out-of-cell time for people with disabilities impacting fatigue on sleep medications.

The Expert recommends that the County incorporate these requirements in the OCSD Court & Custody Operations Manual (CCOM).

Based on this, the Expert finds that the County has partially implemented the RP requirements.

**Partially Implemented (Previous Rating Partially Implemented)**

- E. *The County will make best efforts to ensure all people are offered opportunities for out-of-cell time during normal daylight hours each week.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “In housing areas where security concerns, classification restrictions, or separation orders prevent the inmates from using the dayroom together, staff shall follow a set schedule to ensure the equitable distribution of dayroom among inmates or groups. The schedule will rotate on a daily basis to provide a variety of dayroom times for each inmate or group.”

The incarcerated persons interviewed stated they are offered and provided opportunities for out-of-cell time during normal daylight hours each week. They also confirmed the out-of-cell schedule rotates during the week. Additionally, based on the review of Dayroom and Recreation Logs, the Expert confirmed that incarcerated persons are offered some opportunities for out-of-cell time during normal daylight hours each week.

Based on this, the Expert finds the County has adequately implemented the RP requirements.

**Adequately Implemented (Previous Rating Adequately Implemented)**

- F. *The County shall utilize an effective electronic system for documenting and tracking the amount of out-of-cell time that each person in custody is offered and receives with respect to each of the above categories.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation requires the logging of Outdoor Recreation and Dayroom as follows:



Open Housing Areas - In housing areas where all inmates in the housing area are allowed access to outdoor recreation or dayroom together, staff shall make an entry in the guard station daily log whenever:

- The dayroom(s) are opened.
- The dayroom(s) are closed.
- Outdoor recreation is offered.
- Outdoor recreation is closed or when the inmates return from outdoor recreation, depending on the housing area's configuration.
- Groups

In housing areas where inmates are separated into groups for security purposes, staff shall log the start and end times of all offered opportunities for outdoor recreation and dayroom in the guard station daily log. The entry will include which cells make up the group.

In module housing areas, staff shall document the following information on the guard station daily dayroom log:

- Inmate's name
- Booking number
- Start time/end time.
- Any refusal of dayroom and reason for refusal
- Any inmate who requests to lock it down before their three-hour minimum expires.
- Inmates with Individual Inmate Activity Logs
- Staff shall log the start and end times of all offered opportunities for outdoor recreation and dayroom, and whether the inmate accepted or declined, in the inmate's Individual Inmate Activity Log.

The County currently tracks the out-of-cell time for incarcerated persons using an electronic Dayroom Log and Recreation Log. The Dayroom log includes the following data fields:

- Overall Start/End
- Break 1 Start/End
- Break 2 Start/End
- Break 3 Start/End
- Break 4 Start/End
- Groups/Cells
- Notes Entered By
- Total DR Time

The Recreation Log includes the following data fields:

- Start
- End
- Group Cells



- Notes
- Entered By
- Total

In a review of the Dayroom Logs, the Expert notes that some of the Dayroom Logs only reflect the cell numbers with no incarcerated person identifiers:

- CMJ Mod B - Staff names who enter the data are not reflected.
- TLF Mods I, K, M, N, Q, R, and L (at times, logs only reflect "Takers," and at times, the Total DR Time field is blank)
- IRC Mods K and M (at times, logs only reflect "Takers," and at times, the Total DR Time field is blank)

In a review of the Recreation Logs, the Expert notes that some of the Recreation Logs only reflect the cell numbers with no incarcerated person identifiers:

- TLF Mods R, Q, P, O, N, M, L, and I (at times, logs only reflect "Takers")
- TLF Barracks H, F, and AE (at times, logs only reflect "Takers")
- IRC Mods L, M, N, J, O, and E (incomplete entries, no data in the end time, and at times, the Total DR Time field is blank)
- CMJ Mods E, C, and A (incomplete entries, no data in the end time, and at times, the Total DR Time field is blank)

The RP requires the County to utilize an effective electronic system for documenting and tracking the amount of out-of-cell time that each person in custody is offered and receives. The County is also required to conduct electronic audits at least weekly to ensure that OCSD is offering the required out-of-cell time consistent with the RP provisions. The current electronic system, as used, does not effectively document and track the amount of out-of-cell time that each person in custody is offered and receives. The Expert recommends that the County consider implementing a tracking system that tracks each incarcerated person's individual out-of-cell time offered and provided. The tracking system must have the capability/functionality to track the following:

- Dayroom offered for every incarcerated person (date and time including weekly totals)
- Dayroom provided for every incarcerated person (date and time including weekly totals)
- Dayroom refusals for every incarcerated person (date and time including weekly totals)
- Cases of emergency (count, searches, and lockdowns) where the dayrooms were not open.
- Cases where the incarcerated person is at court or an off-site medical appointment.
- Scheduled program participation in the dayroom
- Recreation yard offered for every incarcerated person (date and time including weekly totals)

- Recreation yard provided for every incarcerated person (date and time including weekly totals)
- Recreation yard refusals for every incarcerated person (date and time including weekly totals)
- Cases related to exigent circumstances or inclement weather that precludes the provision of the minimum outdoor time in a given week.
- Restriction of dayroom and recreation yard access related to infectious disease control.

With the rollout of an electronic system with functionality to track these components, the County must also ensure that staff consistently documents information in the tracking logs sufficient for quality assurance and proof of practice. Because the current tracking system does not effectively document and track the amount of out-of-cell time that each person in custody is offered and receives, the Expert finds the County has partially implemented the RP requirements.

#### **Partially Implemented (Previous Rating Partially Implemented)**

- G. *The County shall conduct electronic audits at least weekly to ensure that OCSD is offering the required out-of-cell time consistent with the provisions set forth herein. Supervisory staff will regularly review this data for quality assurance and take steps to address any deficiencies.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “The sergeant responsible for the housing area shall review dayroom usage as part of the required housing area checks and ensure the three-hour dayroom minimum has been met. If the three-hour dayroom minimum has not been met, the sergeant will confirm the reason(s) are clearly documented in the guard station daily log.”

In a review of the Activity, Recreation, and Dayroom Logs, the Expert determined that the County is not conducting the required weekly electronic audits to ensure that OCSD is offering the required out-of-cell time consistent with the requirements of the RP. The County must ensure supervisory staff conducts the audits for quality assurance and, in addition, take steps to address deficiencies.

Based on this, the Expert finds that the County has not implemented the RP requirements.

#### **Not Implemented (Previous Rating Not Implemented)**

- H. *OCSD, in coordination with CHS, may place temporary restrictions on dayroom and outdoor recreation access, such as for issues related to infectious disease control.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Correctional Health Services (CHS) may place temporary restrictions on dayroom

access, such as for inmates with contagious diseases or inmates who pose a danger to themselves or others.”

Note: This section offers clarifications as to the scope of other requirements in the Settlement Agreement and inform the analysis of the dayroom/outdoor recreation Settlement Agreement requirements. The narrative is provided only as contextual considerations in assessing the implementation of IV.A.1, IV.A.1.a (dayroom), IV.A.2, and IV.A.2.a (outdoor recreation). Based on this, a Compliance rating is not warranted.

- I. *OCSD may place temporary restrictions on dayroom and outdoor recreation access for the count, the escort of CHS or other non-custodial personnel, and for any lockdown of a facility/housing unit for security reasons.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Security concerns may necessitate the cancellation or reduction of scheduled recreation time. In the event of a cancellation or failure to provide the minimum required opportunities for recreation, the watch commander shall be notified and the reason for the cancellation or failure shall be documented in the appropriate log.” In addition, the OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation states, “Staff may temporarily close the dayroom only for as long as necessary to facilitate the daily operations of the housing area, such as counts, safety checks, meals, searches, clothing exchange, commissary, med call, etc., and shall reopen the dayroom when the activity is complete. All activities shall be documented in the guard station daily log.”

In a review of the Recreation and Dayroom Logs, the Expert noted that custody staff routinely documents the closure of the dayrooms and recreation yards due to count and in cases of lockdowns and/or security reasons.

Note: This section offers clarifications as to the scope of other requirements in the Settlement Agreement and inform the analysis of the dayroom/outdoor recreation Settlement Agreement requirements. The narrative is provided only as contextual considerations in assessing the implementation of IV.A.1, IV.A.1.a (dayroom), IV.A.2, and IV.A.2.a (outdoor recreation). Based on this, a Compliance rating is not warranted.

- J. *In cases where a person refuses out-of-cell time repeatedly (e.g., more than 3 times in one week) and the reason for such refusals may be related to their mental health, medical, or disability status, Jail staff will make a referral to CHS (urgent or higher) for assessment and appropriate clinical follow-up.*

The OCSD Court & Custody Operations Manual (CCOM) 2006 – Recreation does not address these requirements.

During the incarcerated person interviews, nine (9) incarcerated persons stated they chose not to go to the yard and, at times, did not participate in out-of-cell activities (dayroom). Additionally, the Recreation and Dayroom Logs reflect that multiple incarcerated persons refused recreation and dayroom; however, the County did not produce any custody-initiated referrals to CHS staff for assessment and clinical follow-up.

This provision relates in part to ADA Remedial Plan Section IX.E.2 (“The ADA Compliance Unit shall interview incarcerated persons with disabilities on a monthly basis. If during the interview, the ADA Compliance Unit discovers that a person with a disability has refused offers for outdoor recreation three times in a row, or has refused offers for dayroom three times in a row, the ADA Compliance Unit shall inquire and document the reason(s) for the refusal...”). Section IX.E.2 is covered in OCSD Policy 8000 (at p. 19), while this provision (RH Section I.J) is only partially covered (at p. 7 – requiring documentation of referrals but providing no direction as to custody staff referral requirements). Further policy/training development may be warranted regarding this provision.

The County must incorporate this requirement into the OCSD and CHS policies and procedures and ensure that custody staff is trained in the RP requirements. Based on this, the Expert finds that the County has not implemented the RP requirements.

**Not Implemented (Previous Rating Not Implemented)**

## **B. Closure Of Disciplinary Isolation (DI) Cells And Central Men's Sheltered Living Cells To End Housing Of People In Areas Of Extreme Sensory Deprivation And Lack Of Program Space**

- A. It is the intent of OCSD to end the system of DI that has historically applied in Orange County jails. This commitment includes ending the use of the 72 DI cells, including 24 cells at the Intake and Release Center (IRC), 32 cells at Theo Lacy, 12 cells at Central Men's Jail, and 4 cells at Central Women's Jail.*
- B. The DI cells at IRC were recently deactivated and will no longer be used for disciplinary or any other form of housing effective. The DI cells at IRC are designated to be repurposed for meeting space available for people in custody (legal counsel meetings, mental health contacts, etc.).*
- C. OCSD recently deactivated and will no longer use the DI cells at Theo Lacy, Central Men's Jail, and Central Women's Jail for disciplinary or any other form of housing.*
- D. Notwithstanding the above, OCSD may use the above-referenced cells on a temporary basis for infection control or exigent security reasons.*

During the previous monitoring tour, the County produced Disciplinary Isolation Logs that reflect the use of the DI cells. The logs reflect the most recent dates the County used the DI as follows:

- IRC – June 7, 2021
- CWJ – November 3, 2020
- TLF – June 22, 2021
- CMF – March 12, 2021

During the on-site tour, the Expert toured the Disciplinary Isolation that OCSD historically used. The Expert noted that the OCSD DI cells were not in use. Additionally, the Expert noted that some of the cells had been converted to storage. The County also advised the Expert that the DI cells had not been used on a temporary basis for infection control or exigent security reasons.

The monitoring of the CMJ Sheltered Living Cells will be addressed in the ADA Report Section VII.E.

Based on this, the Expert finds that the County has adequately implemented the RP requirements.

**Adequately Implemented (Previous Rating Adequately Implemented)**

## C. Creation Of Special Management Unit (SMU) Status

The County reported that the SMU continues to not be operational at this time due to the need for the County to finalize policy and forms. In addition, the County reported that due to the impact of COVID-19, the County has not implemented the RP requirements of the SMU. The County continues to report that based on this, incarcerated persons who are found guilty of Jail Rule Violations continue to not be assessed and prescribed periods of time in the SMU as punishment for the most egregious rule violations as set by the disciplinary bail schedule. In all cases where an incarcerated person is assessed penalties such as loss of privileges during the disciplinary hearing, the incarcerated person serves the loss of privileges in their current housing location/module. The Expert notes the current policies continue to address some of the RP requirements, such as:

- The OCSD has a Jail Rule Violation Discipline (Bail Schedule). The Bail Schedule defines “Egregious Offenses” that may result in loss of privileges and SMU placement, Major Jail Rule Offenses, and Minor Jail Rule Offenses that may result in loss of privileges. The Bail Schedule also includes recommended sanctions/penalties for 1<sup>st</sup>, 2<sup>nd</sup>, and Habitual Violators (3<sup>rd</sup> violation or more) for all three (3) categories and each specific offense. The Bail Schedule states that for Habitual Violators (3<sup>rd</sup> violation or more), progressive discipline will be assigned no less than discipline recommended for a 2<sup>nd</sup> offense. Although the County has not implemented the SMU policies, the Expert notes that the OCSD Court & Custody Operations Manual (CCOM) 1602.5 - Discipline Policy currently does not address the following requirements:
- The Bail Schedule reflects that no SMU disciplinary term for a jail rule violation exceeds 30 days. The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “No inmate, under any circumstances, will spend more than thirty (30) consecutive days on SMU status without three (3) days relief.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “A medical evaluation of the inmate will be conducted within 72 hours prior to the inmate’s placement into the SMU and a mental health evaluation of the inmate will be conducted within 24 hours prior to the inmate’s placement into the SMU.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “No inmate will be placed in the SMU prior to a disciplinary hearing held by the Disciplinary Officer and without permission from the Watch Commander. Correctional Health Services (CHS) will be notified prior to an inmate being housed in a SMU cell.” The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) also states, “Placement of an inmate in SMU pending a disciplinary hearing will not include the loss of any regular privileges such as commissary, public visiting, dayroom or outdoor recreation (Full-Privileges).” However, the requirement for



CHS to conduct a medical and mental health evaluation within eight hours of the placement is not included in the policy.

- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) also states, “Inmates housed in SMU will be offered a minimum of 2 hours per day of out of cell time unless specific and articulable reasons exist for a shorter time period.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “An inmate will not be denied the exercise of religion. Exclusion from group religious services may only be based on security concerns, which will be documented.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “Correspondence privileges shall not be withheld except in cases where the inmate has violated correspondence regulations, in which case correspondence may be suspended for no longer than seventy-two (72) hours without the review and approval of the Division Commander. In no case shall the mail privileges with any members of the State Bar, holders of public office, the courts or Division Commander be suspended.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “Telephone use will be made available on request to contact an attorney, the courts, or for personal emergencies.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “Access to legal counsel shall not be suspended as a disciplinary measure.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “Inmates housed in the SMU will be permitted one book from the Orange County Jail Library, which may be exchanged for another book.”
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “The Disciplinary Sergeant will conduct a review to determine if SMU is still necessary for the offender. This review will occur every 7 days that the inmate is housed in SMU.” Additionally, the OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) “After an inmate has completed thirty (30) consecutive days in SMU, there shall be a review by the Division Commander before the SMU status is continued.” The Expert notes the RP requirements for the 28-day review, reinstatement of privileges, requirement for a face-to-face review out-of-cell, conferring with medical and mental health staff, and provision of a written notice are not addressed in the policy.
- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “A Correctional Health Services staff member will check the status of all inmates housed in SMU at least once per shift. The visit will be to inquire to the inmate's health and/or need for medical services. These checks will be recorded on the Daily Inmate Activity Log and SMU Master Log. A Correctional Health Services staff member will check the mental health



status of any inmate housed in SMU on a weekly basis to determine whether the disciplinary status is to continue.”

- The OCSD Court & Custody Operations Manual (CCOM) 1602.7 – Special Management Unit (SMU) states, “If CHS staff believe that the inmate is unable to control his/her behavior or is unable to understand the consequences of his/her behavior due to a disability or mental health condition, the inmate will not be housed in the SMU, and this will be documented in the disposition of punishment. For more information, reference CCOM Policy 2104.1(c) - Psychiatric Evaluation.”
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- A. *With the deactivation of the Disciplinary Isolation cells, OCSD shall revise its Disciplinary system to instead utilize a SMU. The SMU will be in designated general modular housing unit(s) and serve as housing for people on a temporary housing status for prescribed periods of time, due to a disciplinary violation. SMU will be utilized for only egregious and violent rule violations.*
  - B. *OCSD and CHS will implement new procedures to limit the number and length of placements in the SMU, including as set forth below.*
  - C. *OCSD shall utilize a disciplinary matrix of penalties that will include alternatives to SMU disciplinary housing status. The matrix shall set forth maximum penalties for each disciplinary violation. SMU disciplinary housing status shall be reserved for offenses involving violence, escape, possession of drugs or weapons, or posing a serious threat to the facility’s safety and security or by encouraging others to engage in such misconduct.*
  - D. *No SMU disciplinary term for a rule violation will exceed 30 days. Disciplinary SMU placements for violations that arise out of the same episode shall be served concurrently.*
  - E. *CHS will be notified prior to the placement of any person in the SMU. A medical evaluation will be conducted within 72 hours prior to a person’s placement in the SMU. A mental health evaluation will be conducted within 24 hours prior to a person’s placement in the SMU.*
  - F. *No person will be placed in the SMU prior to a disciplinary hearing, except in rare cases in which there is a current threat to safety and security of the facility that requires immediate SMU placement.*
    - 1. *Such placement may occur only with approval of the Watch Commander. CHS will conduct a medical and mental health evaluation within eight hours of the placement.*
    - 2. *Placement in the SMU pending a disciplinary hearing will not include the loss of any regular privileges.*
  - G. *Upon placement in the SMU, OCSD will provide each individual, in writing and with effective communication accommodations as needed, notice as to the conditions, privileges, expectations, and incentive-based system that applies in the SMU. OCSD staff shall document that this information is communicated effectively to individuals with disabilities affecting communication.*
  - H. *Conditions and Incentive-Based System in the SMU*

1. *A person placed in the SMU will be offered a minimum of two (2) hours per day of out-of-cell time, with opportunities for interaction with others (e.g., shared dayroom time) consistent with safety and security needs.*
2. *When a person is placed in the SMU, certain privileges may initially be suspended, as determined at the disciplinary hearing.*
3. *OCSD will develop an incentive-based system to facilitate reinstatement of privileges based on compliance with Jail regulations. The incentive-based system will include consideration – at the Weekly Review (discussed below) – of early discharge from the SMU and/or reinstatement of privileges based on positive behavior, including:*
  - a. Outdoor recreation*
  - b. Dayroom time beyond the required two (2) hours per day*
  - c. Public visiting*
  - d. Access to commissary items*
  - e. Access to newspapers, magazines and more than one book (the one book will be in addition to any religious materials, with a process for book exchange promptly upon request)*
  - f. Access to personal telephone calls*
  - g. Electronic tablets*
  - h. Cards or games*
  - i. Return of personal property items*
4. *OCSD will develop clear rules that are effectively communicated to incarcerated persons held in the SMU that explain under what circumstances a person can achieve early release from the SMU and/or reinstatement of privileges.*
5. *Any person placed in the SMU will not be denied exercise of religion. OCSD will ensure that people in the SMU may participate in religious programming, absent a specific security concern that is documented.*
6. *Access to showers will not be restricted in the SMU. Additional showers will be provided upon reasonable request and in cases where personal hygiene and sanitation warrant, including where necessary to accommodate people with disabilities (e.g., extra showers for individuals with incontinence). OCSD will ensure adequate documentation as to the provision of showers to each person in the SMU.*
7. *Any person placed in the SMU will have normal personal mail/correspondence privileges except in cases where the person has been found to have violated correspondence regulations, in which case correspondence may be suspended for no longer than seventy-two (72) hours without the review and approval of the Administrative Captain.*
8. *Any person placed in the SMU will have access to the telephone on request to contact an attorney, the courts, or for personal emergencies.*
9. *Access to legal counsel shall not be restricted as a disciplinary measure.*
10. *Any person in the SMU will always be permitted one book from the Orange County Jail Library, which can be exchanged for another book promptly upon request.*
1. *Regular Classification Review Process in SMU*

1. *For each person held in the SMU, custody staff will conduct a review at least every seven (7) days (the "Weekly Review"), regardless of any assessed SMU term imposed, to evaluate the person's current circumstances and determine whether the person should be removed from the SMU and/or have some or all privileges reinstated.*
2. *The Weekly Review will include a face-to-face interview in a private, out-of-cell setting, consistent with individual security needs, to discuss progress and compliance with the SMU-detained person's individual case plan.*
3. *As part of the Weekly Review, custody staff shall confer with mental health and medical staff about whether the SMU setting and/or denial of privileges/property is causing harm or risk of harm to the individual's well-being and if so, the appropriate steps to address the issue (including removal from SMU or reinstatement of privileges/property (in particular, phone contact/visits with family/loved ones or access to reading/writing/art materials) pursuant to the incentive-based system). Mental health and medical staff input should be documented.*
4. *Completion of the Weekly Review process will be overseen by the Watch Commander or other Commander-level-or-higher staff.*
5. *Absent extraordinary circumstances that include a person's persistent failure to comply with facility regulations in a manner that poses a specific threat to safety and security, no SMU placement will exceed thirty (30) days.*
6. *If a person is held in the SMU for 28 days, the Administrative Captain will conduct a review (the "28-Day Review"), which shall include a face-to-face interview with the person in a private out-of-cell setting (consistent with individual security needs), consultation with mental health and medical staff, and consultation with custody staff in the housing unit.*
7. *If a person is retained in the SMU following completion of a Weekly Review or 28-Day Review, OCSD will document and provide the person with written notice explaining (a) the reasons for retention in the SMU, and (b) clear expectations for how the person may earn reinstatement of privileges and progress to a less restrictive setting. This information will be effectively communicated to the individual consistent with any applicable communication- and/or disability accommodation-related needs.*
8. *Appropriate SMU Review form(s) will be implemented consistent with the provisions set forth herein.*
- J. *Hygiene Items and Writing Supplies*
  1. *OCSD will ensure that persons placed in the SMU receive a welfare pack containing appropriate personal hygiene items and writing supplies.*
  2. *Staff will provide replacement items for all allowable hygiene items and writing supplies promptly upon request, except in cases where the individual is using a particular item improperly.*
  3. *OCSD will ensure complete and adequate documentation of initial and replacement provision of welfare pack items, including all requests and any refusals.*

4. Any person placed on SMU restrictions will be provided reasonable access (including promptly upon request) to nail clippers, with appropriate restrictions and supervision based on individualized safety concerns.
- K. OCSD shall not restrict access to Inmate Request forms or Grievance forms in the SMU.
- L. CHS health care staff will conduct rounds in the SMU at least once per shift, and mental health staff will conduct rounds in the SMU at least once per week.
  1. These contacts will include, at a minimum: (a) conversation with each person housed in the SMU; b) visual observation of the person's cell, including the cleanliness of clothing and bed linens; (c) inquiry into whether the person would like to request a confidential meeting with a mental health or medical provider.
  2. If a person requests a confidential medical or mental health care contact or staff identify a mental health or medical need warranting follow-up, staff shall arrange for timely evaluation and treatment in an appropriate confidential setting.
- M. In recognition of the distinct risks of Restrictive Housing placement in detention, OCSD will not place people with the following risk factors in the SMU absent rare and extraordinary circumstances in which such placement is necessary to address current, specific safety concerns that are documented, with Watch Commander review and approval, and in such cases only for the minimum time necessary to identify an alternative appropriate placement:
  1. People diagnosed with Serious Mental Illness or who have an Intellectual or Developmental Disability;
  2. People with significant medical or daily nursing care needs, consistent with CHS's clinical input;
  3. People who are pregnant, post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy, consistent with CHS's clinical input.
- N. Safety checks to maintain the safety and health of the persons in SMU and the security of the facility shall be conducted for all individuals on SMU status at least every 30 minutes, at staggered intervals. Completion of safety checks will be timely documented.
- O. Return of Personal Property Taken During SMU Status
  1. Any personal property that is taken from an individual who is subject to SMU disciplinary status will be clearly logged and documented, and the personal property will be held in a secure location until returned.
  2. Return of personal property should be considered during the period of discipline as part of the incentive-based system.
  3. OCSD will return all personal property that was taken during the SMU disciplinary period promptly following the end of the SMU disciplinary period (i.e., within 24 hours). OCSD will document the return of property.

Based on the County reporting that the SMU continues to not be operational at this time due to the need for the County to finalize policy and forms, the Expert finds the RP requirements for the Creation Of Special Management Unit (SMU) Status (A-O) have not been implemented.

**Not Implemented (Previous Rating Not Implemented)**

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## **D. Prohibition On Discipline for Behaviors That Are Related Mental Health Or Disability, Prohibition On Sanctions That Pose Risk Of Serious Harm**

- A. *OCSD and CHS policies and procedures shall require meaningful consideration of the relationship of each person's behavior to any mental health disability or Intellectual/Developmental Disability, the efficacy of disciplinary measures versus alternative interventions, and the impact of disciplinary measures on the health and well-being of incarcerated people with disabilities.*

The Expert notes that the OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy does not include this requirement. Additionally, the CHS policies related to the disciplinary process were not produced. The Expert notes that the County produced the SMU BH Clearance Form the associated policies (HCA/CHS and Custody) were not produced. The Expert notes that the County did not produce any completed Mental Health Rules Violation Review Forms and/or adjudicated disciplinary reports for incarcerated persons identified as having a mental health or intellectual/developmental disability.

Based on this, the Expert finds that the County has not implemented the RP requirements.

### **Not Implemented (Previous Rating Not Implemented)**

- B. *People alleged to have committed a rules violation shall be reviewed by a qualified mental health professional if any of the following apply:*
1. *The person is housed in, or is currently referred for placement in, any designated Mental Health Unit.*
  2. *The Disciplinary Hearing Officer or other jail staff have reason to believe the person's behavior was unusual, uncharacteristic, or a possible manifestation of mental illness, including where referral for CHS evaluation is warranted.*
  3. *The person is on the mental health caseload and may be subject to (a) Special Management Unit (SMU) placement, or (b) loss of good time/work time credit as a consequence of the disciplinary violation as charged.*
  4. *If any of the above criteria is met, a mental health clinical staff member who is not the treatment provider for the patient shall complete a Rules Violation Mental Health Review form, indicating:*
    - a. *Whether or not the reported behavior was related to mental illness, adaptive functioning deficits, or other disability.*
    - b. *Whether the person's behavior is, or may be, connected to any of the following circumstances:*
      - i. *An acute or otherwise significant psychiatric episode*



- ii. An act of self-harm or attempted suicide*
- iii. A cell extraction related to provision of medical/mental health treatment*
- iv. Placement in clinical restraints or seclusion.*
- c. Any other mitigating factors regarding the person's behavior, disability, and/or circumstances that should be considered.*
- d. Whether particular disciplinary sanctions should be avoided in light of the person's mental health disability or intellectual disability, treatment plan, or adaptive support needs (e.g., the potential adverse mental health impact of denial of phone contact/visits with family members).*
- e. CHS staff will consider issues of brain development and psychosocial development for young adults (generally, anyone 24 years old or younger) as part of this evaluation, including as they relate to the appropriateness of discipline for the behavior and the potential adverse impacts of particular disciplinary sanctions.*

The Expert notes the CHS policies related to the requirement for a qualified mental health professional to conduct a review of incarcerated persons alleged to have committed a rules violation were not produced. Additionally, the Expert notes that the OCSO Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy does not include this requirement. The County (CHS) produced a Mental Health Review Form; however, the form reflects that the Violation Mental Health Review form will be completed by mental health staff prior to admission to the Special Management Unit (SMU). The RP requires that in cases where an incarcerated person is alleged to have committed a rules violation, a qualified mental health professional must conduct a review if any of the following apply:

- The person is housed in, or is currently referred for placement in, any designated Mental Health Unit.
- The Disciplinary Hearing Officer or other jail staff have reason to believe the person's behavior was unusual, uncharacteristic, or a possible manifestation of mental illness, including where referral for CHS evaluation is warranted.
- The person is on the mental health caseload and may be subject to (a) Special Management Unit (SMU) placement or (b) loss of good time/work time credit as a consequence of the disciplinary violation as charged.

On a positive note, the County reported that staff typically do not write jail rule violations in cases where incarcerated persons who are housed in mental health units and for the incarcerated persons who have been identified as having an intellectual/developmental disability. However, the County needs to ensure the policies and procedures include the RP requirements.

The County must develop policies and procedures, including applicable forms, to ensure the RP requirements are met.

Based on this, the Expert finds that the County has not implemented the RP requirements.

**Not Implemented (Previous Rating Not Implemented)**

*C. Consideration of Mental Health Input and Other Disability Information in Disciplinary Process.*

- 1. The Disciplinary Hearing Officer shall ensure that incarcerated people are not disciplined for conduct that is related to their mental health disability or Intellectual/Developmental Disability.*
- 2. The Disciplinary Hearing Officer shall consider the mental health clinician's findings and any other available disability information when deciding what, if any, disciplinary action should be imposed.*
- 3. The Disciplinary Hearing Officer shall consider the qualified mental health professional's input on minimizing the deleterious effect of disciplinary measures on the person in view of their Serious Mental Illness, any other relevant disability, or adaptive support needs.*
- 4. OCSD shall not subject any person to discipline for refusing treatment or medications, or for engaging in self-injurious behavior or threats of self-injurious behavior.*

The Expert notes that the OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy does not include this requirement.

The County must develop policies and procedures, including applicable forms, to ensure the RP requirements are met.

Based on this, the Expert finds that the County has not implemented the RP requirements.

**Not Implemented (Previous Rating Not Implemented)**

*D. Disability-Related Accommodations During the Disciplinary Process*

- 1. OCSD and CHS shall provide reasonable accommodations (e.g., staff assistant) during the hearing process for people with mental health or intellectual disabilities.*
- 2. OCSD and CHS shall take reasonable steps to ensure the provision of effective communication and necessary assistance to people with disabilities at all stages of the disciplinary process.*
- 3. The Disciplinary Hearing Officer will check the ADA Tracking System and ensure provision of reasonable accommodations and effective communication during the disciplinary process.*

The Expert notes that the OCSD Court & Custody Operations Manual (CCOM) 1602.5 – Discipline Policy states, “The inmate shall have access to staff or inmate assistance when the inmate is illiterate, or the issues are complex.” The policy does not include the following RP requirements:

- That OCSD and CHS must provide staff assistants during the hearing process for people with mental health or intellectual disabilities;
- Ensure the provision of effective communication and necessary assistance to people with disabilities at all stages of the disciplinary process; and,
- The requirement for the Disciplinary Hearing Officer to check the ADA Tracking System and ensure provision of reasonable accommodations and effective communication during the disciplinary process.

The County must develop policies and procedures, including applicable forms, to ensure the RP requirements are met.

Based on this, the Expert finds that the County has not implemented the RP requirements.

**Not Implemented (Previous Rating Not Implemented)**

*E. Supervision and Oversight of Disciplinary Processes*

1. *OCSD shall designate a supervisory-level Disciplinary Hearing Officer for each facility, to be responsible for ensuring consistency in disciplinary practices and procedures as set forth herein.*

The OCSD reported that the following staff have been designated as the supervisory-level Disciplinary Hearing Officers:

Central Jail Complex - Sergeant Thalken and Sergeant Hunt  
Theo Lacy Facility – Sergeant Larson and Sergeant Parrish

Based on this, the Expert finds that the County has adequately implemented the RP requirements. Although this provision has been designated as Adequately Implemented in two consecutive reports, it will continue to be monitored to ensure that supervisory-level Disciplinary Hearing Officers adequately oversee the disciplinary-related practices and policies covered in the Remedial Plan that still await full implementation.

**Adequately Implemented (Previous Rating Adequately Implemented)**

2. *CHS shall designate a supervisory-level clinician for each jail facility, who shall be responsible for ensuring consistency in disciplinary practices and procedures as set forth herein.*

The CHS did not report the staff that has been designated as the supervisory-level clinician who is responsible for ensuring consistency in disciplinary practices and procedures for each jail facility.

Based on this, the Expert finds that the County has not implemented the RP requirements.

**Not Implemented (Previous Rating Not Implemented)**



## V. Signature

Submitted on behalf of Sabot Technologies, Inc. dba Sabot Consulting to the County of  
Orange and Orange County Sheriff's Office

A handwritten signature in dark ink, appearing to read "Julian Martinez", is written over a horizontal line.

Julian Martinez  
Director  
Sabot Consulting

May 31, 2023

Date